U.S.
108-491

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 272.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

FORTY-THREE GALLONS OF WHISKY, THIRTY-THREE FOX PELTS, AND OTHER PROPERTY, BERNARD LARIVIERE AND CLOVIS GUERIN, CLAIMANTS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

FILED SEPTEMBER 22, 1880.

SUPREME COURT OF THE UNITED STATES.

No. 272.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

FORTY-THREE GALLONS OF WHISKY, THIRTY-THREE FOX PELTS, AND OTHER PROPERTY, BERNARD LARIVIERE AND CLOVIS GUERIN, CLAIMANTS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

INDEX.

	Original.	Print.
Writ of error to circuit court	1	1
Return	1½	1
Citation	3	2
Copy of writ of error to circuit court	5	2
Copy of writ of error to circuit court	6	3
Writ of error to district court	7	4
PROCEEDINGS IN DISTRICT COURT.		
Information	9	5
Schedule. (Inventory)	21	10
Monition	39	20
Affidavit of publication	42	21
Copy of notice	43	22
Claimants' stipulation for value	46	23
Answer of Lariviere	49	24
Amendment to answer	55	26
Answer of Guerin	61	28
Trial	65	30
Verdict	68	31
Judgment	68	31
Bill of exceptions	69	32
Testimony of M. V. Nichols	70	32
William H. Stewart	74	33
Ma-zhe-osh	75	34
Ga-ba-quon	77	35
Dr. C. P. Allen	78	35

	Original.	Print.
Testimony of William L. Perkins	79	35
Maurice Lyons	80	36
F. J. Rothplatz	80	36
J. T. Sargent	81	36
Frank Jordan	85	38
E. C. Davis	87	39
Delas Jacobus	88	39
William Bickel	89	39
S. H. Nichols	92	41
Charge to the jury	93	41
Bill of exceptions signed and allowed	95	42
Exhibit A. (Letter of Acting Commissioner of Indian Affairs transmitting commission to M. V. Nichols)	95	42
B. (Lettar of United States Indian agent to Nichols)	97	42
C. (Bill)	99	43
D. (Letter of Lariviere to Peabody & Lyons)	100	44
E. (Receipt of railroad company for packages)	100	44
F. (Letter of assessor to C. Delano, Commissioner of Internal Revenue)	101	45
G. (Letter of Commissioner of Internal Revenue to assessor)	102	45
H. (Commissioner to Nichols)	102	45
I. (List of persons liable to tax)	104	46
K. (Record of special taxes)	105	46
L. (Blank receipt)	106	47
Charge of the court	106	47
PROCEEDINGS IN CIRCUIT COURT.		
Order for writ of error	116	50
Hearing	117	50
Judgment	118	51
Assignment of errors	119	51
Precipe for writ of error	121	51

1 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the circuit court of the United States for the district of Minnesota, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court before you, or some of you, between The United States of America, plaintiff in error, from the district court, and 43 Gallons of Whiskey, 33 foxpelts, and other property, whereof Bernard Larivierre & Clovis Guerin are claimants and defendants in error, from the district court for said district, a manifest error hath happened to the great damage of the said United States as is said: We, being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the justices of the Supreme Court of the United States, at the Capitol in the City of Washington, together with this writ, so that you have the same at the said place, before the justices aforesaid, on the second Monday of October next, that, the record and proceedings aforesaid being inspected, the said justices of the Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States ought be done.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court, of the United States, this twenty-sixth day of May in the year of our Lord one thousand eight hundred and eighty, and of the Independence of the United States the one hundred and fourth.

[SEAL.] H. E. MANN,
Clerk of the Circuit Court of the United States of America,
for the District of Minnesota.

1½ UNITED STATES OF AMERICA,
District of Minnesota, ss:

The answer of the judges of the circuit court of the United States for the district of Minnesota, in the eighth circuit in within writ mentioned.

The record and proceedings whereof mention is within made, with all things concerning the same, are hereby respectfully certified to the justices of the Supreme Court of the United States of America, within mentioned, in a certain schedule to this writ annexed marked "A" as within it is commanded.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, at Saint Paul, in the district of Minnesota, this 9th day of September, in the year of our Lord one thousand eight hundred and eighty, and of the Independence of the United States the one hundred and fifth year.

[SEAL.] H. E. MANN,
Clerk U. S. Circuit Court, Dist. of Minnesota.

(Indorsed:) Supreme Court U. S. The United States, pl'ff in error, vs. 43 Gallons Whiskey et al., def'ts in error. Writ of error.

2 *Schedule A referred to in return to foregoing writ of error.*

3 UNITED STATES OF AMERICA, *ss:*

To Bernard Lariovierre and Clovis Guerin, greeting:

You & each of you are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Minnesota, wherein the United States is plaintiff and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the honorable R. R. Nelson, United States district judge for the district of Minnesota, & one of the judges of the circuit court in & for the said district, this 27th day of May, in the year of our Lord eighteen hundred & eighty.

R. R. NELSON,
One of the Judges of said Court.

4 (Indorsed:) United States circuit court, district of Minnesota. The United States vs. Bernard Larrivierre & Clovis Guerin. Citation to appear at U. S. Supreme Court.

Due service of the within citation & a copy thereof is hereby admitted this 28th day of May, A. D. 1880.

DAVIS, O'BRIEN & WILSON,
Attorneys for Larrivierre.
J. V. D. HEARD,
Attorney for Guerin.

Filed May 27, 1880. H. E. Mann, clerk. Wm. W. Billson, U. S. attorney.

5 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the circuit court of the United States for the district of Minnesota, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court before you, or some of you, between the United States of America, plaintiff in error, from the district court, and 43 Gallons of Whiskey, 33 Fox Pelts, & other property, whereof Bernard Lariviere and Clovis Guerin are claimants and defendants in error, from the district court for said district, a manifest error hath happened, to the great damage of the said United States, as is said.: We, being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal,

distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the justices of the Supreme Court of the United States, at the Capitol, in the city of Washington, together with this writ, so that you have the same at the said place, before the justices aforesaid, on the second Monday of October next, that, the record and proceedings aforesaid being inspected, the said justices of the Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States ought to be done.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this twenty-sixth day of May, in the year of our Lord one thousand eight hundred and eighty, and of the Independence of the United States the one hundred and fourth.

[SEAL OF COURT.] H. E. MANN,
Clerk of the Circuit Court of the United States of America for the District of Minnesota.

5½ UNITED STATES OF AMERICA,
District of Minnesota, ss:

The answer of the judges of the circuit court of the United States for the district of Minnesota, in the eighth circuit, in within writ mentioned.

The record and proceedings whereof mention is within made, with all things concerning the same, are hereby respectfully certified to the justices of the Supreme Court of the United States of America, within mentioned, in a certain schedule to this writ annexed, as within it is commanded.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, at Saint Paul, in the district of Minnesota, this day of , in the year of our Lord one thousand eight hundred and , and of the Independence of the United States the one hundred and year.

Clerk U. S. Circuit Court, Dist. of Minnesota.

(Indorsed:) U. S. circuit court, dist. of Minnesota. The United States vs. 43 Gallons Whiskey. Copy writ of error lodged in the office of the clerk of U. S. circuit court, dist. of Minnesota, by the plaintiff in error for Bernard Larivire, defendant in error. W. W. Billson, U. S. att'y. Filed May 27, 1880. H. E. Mann, clerk.

6 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the judges of the circuit court of the United States for the district of Minnesota, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between the United States of America, plaintiff in error, from the district court, and 43 Gallons of Whiskey, 33 Fox Pelts & other property,

whereof Bernard Lariveere and Clovis Guerin are claimants and defendants, in error from the district court for said district, a manifest error hath happened, to the great damage of the said United States as is said: We being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the justices of the Supreme Court of the United States, at the Capitol in the city of Washington, together with this writ, so that you have the same at the said place, before the justices aforesaid, on the second Monday of October next, that, the record and proceedings aforesaid being inspected, the said justices of the Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States ought to be done.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this twenty-sixth day of May, in the year of our Lord one thousand eight hundred and eighty, and of the Independence of the United States the one hundred and fourth.

[SEAL OF COURT.] H. E. MANN,
Clerk of the Circuit Court of the United States of America for the District of Minnesota.

6½ UNITED STATES OF AMERICA,
District of Minnesota, ss:

The answer of the judges of the circuit court of the United States for the district of Minnesota, in the eighth circuit, in within writ mentioned.

The record and proceedings whereof mention is within made, with all things concerning the same, are hereby respectfully certified to the justices of the Supreme Court of the United States of America, within mentioned, in a certain schedule to this writ annexed as within it is commanded.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, at Saint Paul, in the district of Minnesota, this day of in the year of our Lord one thousand eight hundred and , and of the Independence of the United States the one hundred and year.

Clerk U. S. Circuit Court, Dist. of Minnesota.

(Indorsed:) U. S. circuit court, district of Minnesota. The United States vs. 43 Gallons Whiskey, &c. Copy writ of error lodged in the office of the clerk of U. S. circuit court, district of Minnesota, by the plaintiff in error for Clovis Guerin, def't in error. Wm. W. Billson, U. S. att'y. Filed May 27, 1880. H. E. Mann, clerk.

7 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judge of the district court of the United States for the district of Minnesota, greeting:

Because in the record and proceedings, as also in the rendition of the

judgment of a plea which is in the said district court before you, between The United States of America, libellant, and 43 Gallons of Whiskey, 34 Fox Pelts, and other property, Bernard Lariviere and Clovis Guerin, claimants, a manifest error hath happened, to the great damage of the said libellant, as is said: We being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the judges of the circuit court of the United States for the district of Minnesota, at Saint Paul, in said district, together with this writ, so that you have the same at the said place, before the judges aforesaid, on the second Monday of December next, that, the record and proceedings aforesaid being inspected, the said judges of the circuit court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States ought to be done.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this twenty-first day of November, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the one hundred and third.

[U. S. CIRCUIT COURT SEAL.] H. E. MANN,
Clerk of the Circuit Court of the United States of America, for the District of Minnesota.

8 UNITED STATES OF AMERICA,
District of Minnesota, ss:

The answer of the judge of the district court of the United States for the district of Minnesota, in within writ mentioned.

The record and proceedings whereof mention is within made, with all things concerning the same, are hereby respectfully certified to the judges of the circuit court of the United States of America for the district of Minnesota, within mentioned, in a certain schedule to this writ annexed as within it is commanded.

Witness the Hon. Rensselaer R. Nelson, Judge of the *Supreme* Court of the United States of America for the district of Minnesota, at Saint Paul, in the district of Minnesota, this 2d day of December, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the *one hundred and* 103d year.

[U. S. DISTRICT COURT SEAL.] WM. A. SPENCER,
Clerk U. S. Dist. Court, Dist. of Minnesota.

(Indorsed:) U. S. district court, district of Minnesota. United States vs. 43 Gallons of Whiskey, &c. Bernard Lariviere et al., claimants. Writ of error. Filed Nov. 21, 1878. Wm. A. Spencer, clerk.

9 District court of the United States, district of Minnesota.

To the honorable Rensselaer R. Nelson, judge of the district court of the United States for the district of Minnesota:

William W. Billson, attorney of the United States in and for the district of Minnesota, who prosecutes in this behalf as well in the name of

the United States as of whomsoever may be entitled to a moiety of the forfeitures hereinafter mentioned, gives the court now here to understand and be informed:

First. That Bernard Lariviere, a white person, late of the village of Crookston, in the county of Polk, in the district aforesaid, yeoman, heretofore, to wit, on the second day of February, in the year of our Lord one thousand eight hundred and seventy-four, in the county of Polk, in the State and district of Minnesota, and within the jurisdiction of this court, with force and arms, unlawfully did carry and introduce in and upon some vehicle, boat, or conveyance, to the said attorney unknown, from some place and territory outside of the Indian country and outside of the ceded country hereinafter mentioned to the said attorney unknown, into the country ceded to the said United States by the Red Lake and Pembina bands of Chippewa Indians, in and by the treaty between the said United States and the said bands of Chippewa Indians, made and concluded in Minnesota, on the second day of October, in
10 the year of our Lord one thousand eight hundred and sixty-three, and proclaimed by the President of the United States on the fifth day of May, in the year of our Lord one thousand eight hundred and sixty-four, to wit, into that part thereof included and being in the county of Polk, in the State and district aforesaid, certain spirituous liquors, to wit, forty-three gallons of whiskey, ten gallons of Iron Mountain whiskey, two gallons of cherry brandy, two gallons of Jamaica rum, and twenty gallons of bitters, the said bitters being then and there composed mainly of alcohol; which said introduction of spirituous liquors was then and there in violation of the provisions of section twenty of the act of Congress, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June thirtieth, in the year of our Lord one thousand eight hundred and thirty-four, as the same is amended by the act of Congress, entitled "An act to amend an act entitled an act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved March fifteenth, one thousand eight hundred and sixty-four, and was contrary to the provisions of the treaty aforesaid and contrary to the form of the statutes of the United States in such case made.

11 That on the tenth day of March, in the year of our Lord one thousand eight hundred and seventy-four, the said Bernard Lariviere had and owned a large quantity of goods, packages, and peltries, which are fully and particularly described in the schedule hereto annexed, which were then in his possession at said Crookston, in the said county of Polk, in the said State and district and in the said ceded country and within the jurisdiction of this court, and that on the said last-mentioned day R. M. Pratt, who was then and there an Indian agent, duly appointed by the United States, having reason to suspect, and having been informed that the said Bernard Lariviere had introduced into the aforesaid country so ceded to the United States as aforesaid, certain spirituous liquors in violation of the provisions of the said act of Congress as amended as aforesaid, searched, and caused to be searched, the aforesaid stores, packages, and peltries and the places of deposit of the said Bernard Lariviere then and there, which were then and there in the said ceded country as aforesaid, and in the said county and State, and that upon such search the

spirituous liquors hereinbefore described were then and there found therein, stored, packed, and mingled with and in the aforesaid goods, packages, peltries, and places of deposit, and so carried and introduced as
12 aforesaid by the said Bernard Lariviere into the said ceded country, contrary to the form of the statutes of the United States in such case made and provided.

That the said R. M. Pratt, duly appointed Indian agent as aforesaid, then and there, in the said ceded country, ceded to the United States in and by the treaty aforesaid, within the jurisdiction of this court, and on land, seized and took and caused to be seized and taken as forfeited, as such Indian agent, all of the said liquors, and all of the said goods, packages, and peltries of the said Bernard Lariviere so found and being in the said ceded country, which are hereinbefore mentioned, and which are fully and particularly described in the schedule hereto annexed and made a part hereof, and now holds possession of the same at the said Crookston in the said county of Polk, in the State and district aforesaid, in the said ceded country, and within the jurisdiction of this court, to be disposed of as the court shall direct.

Second. That Bernard Lariviere aforesaid, a white person, late of the village of Crookston, in the county of Polk, in the district aforesaid, yeoman, heretofore, to wit, on the second day of February, in the year of our Lord one thousand eight hundred and seventy-four, in the county of Polk, in the State and district of Minnesota, and within the jurisdiction
13 of this court, with force and arms unlawfully did carry and introduce in and upon some vehicle, boat, or conveyance, to the said attorney unknown, from some place and territory outside of the Indian country, and outside of the ceded country hereinafter mentioned as ceded to the United States, to the said attorney unknown, into the country ceded to the said United States by the Red Lake and Pembina bands of Chippewa Indians in and by the treaty between the said United States and the said bands of Chippewa Indians, made and concluded in Minnesota on the second day of October, in the year of our Lord one thousand eight hundred and sixty-three, and proclaimed by the President of the United States on the fifth day of May, in the year of our Lord one thousand eight hundred and sixty-four, with the intent then and there entertained by him, the said Bernard Lariviere, to sell, dispose of, and distribute the said spirituous liquors to and among the bands and tribes of Chippewa Indians then and there under the charge of Indian agents duly appointed by the United States, and frequenting then and there the said county of Polk and village of Crookston, and living then and there in and near the same; the whole of said country so ceded and particularly that part thereof included and being in the said county of Polk, being then and there a wild, uncultivated and sparsely settled country frequented and inhabited
14 mainly by the aforesaid Chippewa Indians, and lying and being then and there and at all times prior thereto adjacent to and immediately adjoining certain lands set apart for and exclusively occupied by the said Chippewa Indians as their reservations, to wit, into that part of said ceded country included then and there and being in the county of Polk, in the State and district aforesaid, certain spirituous liquors, to wit, forty-three gallons of whiskey, ten gallons of Iron Mountain whiskey, two gallons of cherry brandy, two gallons of Jamaica rum, and twenty gallons

of bitters, the said bitters being then and there composed mainly of alcohol. Which said introduction of spirituous liquors as aforesaid was then and there not by order of the War Department of the United States, nor any officer duly authorized thereunto by the said War Department; and which said introduction of spirituous liquors was then and there in violation of section twenty of the act of Congress, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June thirtieth, in the year of our Lord one thousand eight hundred and thirty-four, and was contrary to the provisions of the statutes of the United States in such case made and provided.

That on the tenth day of March, in the year of our Lord one
15 thousand eight hundred and seventy-four, the said Bernard Laraviere had and owned a large quantity of goods, packages, and peltries which are fully and particularly described in the schedule hereto annexed, which were then in his possession at the said Crookston, in the said State and district and in the said ceded country and within the jurisdiction of this court, and that on the said last mentioned day R. M. Pratt, who was then and there an Indian agent, duly appointed by the United States, having reason to suspect and having been informed that the said Bertard Laraviere had introduced into the aforesaid country so ceded to the United States as aforesaid certain spirituous liquors in violation of the provisions of the said section twenty of the said act of Congress as amended as aforesaid, searched and caused to be searched the aforesaid stores, packages, and peltries, and the places of deposit of the said Bernard Laraviere then and there, which were then and there in the said ceded country, as aforesaid, and in the said country and State, and that upon such search the said spirituous liquors hereinbefore described were then and there found therein stored, packed, and mingled with and in the aforesaid goods, packages, peltries and places of deposit, and so carried and introduced as aforesaid by the said Bernard Lariviere into the said ceded country
16 contrary to the form of the Statutes of the United States in such case made and provided.

That the said R. M. Pratt, duly appointed Indian agent as aforesaid, then and there in the said ceded country, ceded to the United States in and by the treaty aforesaid, in the said county of Polk and district aforesaid, within the jurisdiction of this court, and on land, seized and took and caused to be seized and taken as forfeited, as such Indian agent, all of the said liquors, and all of the said goods, packages, and peltries of the said Bernard Laraviere, so found and being in the said ceded country, which are hereinbefore mentioned, and which are fully and particularly described in the schedule hereto annexed and made a part hereof; and now holds possession of the same at the said Crookston in the said county of Polk, in the State and district aforesaid in the said ceded country and within the jurisdiction of this court, to be disposed of as this court shall direct.

Third. That the said Bernard Lariviere, a white person, late of the village of Crookston, in the county of Polk, in the district aforesaid, yeoman, heretofore, to wit, on the second day of February, in the year of our Lord one thousand eight hundred and seventy-four, in the county
17 of Polk, in the State and district of Minnesota and within the jurisdiction of this court with force and arms unlawfully did carry

and introduce in and upon some vehicle, boat, or conveyance to the said attorney unknown, from some place and territory outside of the Indian country, into the Indian country, to wit, into that part thereof lying and being in the county of Polk, in the State and district aforesaid, certain spirituous liquors, to wit, forty-three gallons of whiskey, ten gallons of Iron Mountain whiskey, two gallons of cherry brandy, two gallons of Jamaica rum, and twenty gallons of bitters, the said bitters being then and there composed largely of alcohol; which said introduction of said spirituous liquors into the Indian country as aforesaid was then and there not by order of the War Department of the United States, nor any officer duly authorized thereunto by the said War Department, and which said introduction of liquors was then and there in violation of the provisions of section twenty of the act of Congress entitled "An act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers," approved June thirtieth, in the year of our Lord one thousand eight hundred and thirty-four, as the same is amended by the act of Congress entitled "An act to amend an act entitled 'An act to regulate trade and intercourse with the Indian tribes and to preserve peace on the
18 frontiers,'" approved March fifteenth, in the year of our Lord one thousand eight hundred and sixty-four, and contrary to the form of the statutes of the United States in such case made and provided. That on the tenth day of February, in the year of our Lord one thousand eight hundred and seventy-four, the said Bernard Laraviere had and owned a large quantity of goods, packages, and peltries, which are fully and particularly described in the schedule hereto annexed, which were then in his possession at the said Crookston, in the county of Polk, in the said State and district and in the said Indian country, and within the jurisdiction of this court, and that on the said last-mentioned day R. M. Pratt, who was then and there an Indian agent duly appointed by the United States, having reason to suspect and having been informed that the said Bernard Laraviere had introduced into the aforesaid Indian country certain spirituous liquors in violation of the provisions of the said section twenty of the said act of Congress as amended as aforesaid, searched and caused to be searched the aforesaid stores, packages, and peltries, and the places of deposit of the said Bernard Laraviere then and there, which were then and there in the said Indian country as aforesaid, and in the said county and State, and that upon such search the spirituous liquors
19 hereinbefore described were then and there found therein stored, packed, and mingled with and in the aforesaid goods, packages, peltries, and places of deposit of said Bernard Laraviere, and so carried and introduced as aforesaid by the said Bernard Laraviere into the said Indian country, contrary to the form of the statutes of the United States in such case made and provided.

That the said R. M. Pratt, duly appointed Indian agent as aforesaid, then and there, in the said Indian country, in the said county of Polk and district aforesaid, within the jurisdiction of this court, and on land, seized and took and caused to be seized and taken as forfeited, as such Indian agent, all of the said liquors and all of the said goods, packages, and peltries of the said Bernard Laraviere so found and being in the said Indian country, which are hereinbefore mentioned, and which are fully and particularly described in the schedule hereto annexed and made a part hereof,

and now holds possession of the same at the said Crookston, in the said county of Polk, in the State and district aforesaid, in the said Indian country and within the jurisdiction of this court, to be disposed of as the court shall direct.

That all and singular the premises are true, and that by reason thereof and by force of the statutes in such case made and provided, the
20 aforementioned goods, packages, and peltries, and liquors became and are and should be forfeited to the uses in the said statutes specified.

Wherefore the attorney of the United States prays that all the said goods, packages, and peltries, and liquors may be deemed and declared forfeited; and that due process to enforce the said forfeitures may issue against all of the said property, and to give notice to all persons concerned in interest to appear and show cause at the return day of the process why the said forfeitures should not be decreed.

WILLIAM W. BILLSON,
Attorney of the United States for the District of Minnesota.

UNITED STATES OF AMERICA,
District of Minnesota, ss:

Wm. W. Billson, of said district, being duly sworn, says that he is attorney for the United States in and for the said district; that he knows the contents of the foregoing libel or information, and that the same and each and every part thereof is true to the best of his knowledge, information, and belief.

WM. W. BILLSON.

Subscribed and sworn to before me this nineteenth day of March, in the year of our Lord one thousand eight hundred and seventy-four.

I. N. CARDOZO,
U. S. Comm'r Dist. Minn.

21 SCHEDULE.

Inventory of the goods, packages, and peltries of Bernard Laraviere, seized by R. M. Pratt, Indian agent, as set forth in foregoing libel, being the schedule in the said libel referred to.

11 pairs ladies' slippers.
19 " men's boots.
64 " men's shoes.
18 sacks shot, 25 lbs. each.
71 pairs shoes and slippers.
4 boxes cartridges, cal. No. 44.
8 cards ladies' glass buttons.
1 box Indian paint.
20 cards shirt buttons.
4 packs small envelopes.
7 " large "
63 boxes thread (skein & spool).
3 cards coat buttons.
4 doz. pocket mirrors.
½ " pewter boxes.
2 " ladies' hose.
1 ream paper.
5 neckties.
4 doz. chalk-lines.
3 " boot laces.
3 chalk-lines.
2½ doz. Jew's-harps.
¼ doz. felt hats.
⅓ doz. felt hats.
¼ " " "
⅓
2 black hats.

Inventory—Continued.

2½ doz. men's cotton socks.
2 pairs children's stockings.
3 children's hats.
1 large clock.
3 dozen chalk-lines.
5 black felt hats.
9 chip hats.
46 bolts ribbon.
1 stick lace.
13 children's felt hats.
8 pairs men's cotton gloves.
6 " worsted gloves.
4 white pocket kerchiefs.
2 large mirrors.
7 small "
3 pairs ladies' hose.
11 boxes paper collars.
5 pairs buck gloves.
7 " " mittens.
14 pairs ladies' woolen hose.
22 1 box fish-hooks.
8 pairs elasties.
½ doz. shaving soap.
½ " white felt hats.
6 pairs ladies' elasties.
10 bottles muchilage.
19 wooden pipes.
1 dozen linen kerchiefs.
5 pairs gents' white shirts.
5 hair-brushes.
5 parlor sponge-balls.
2 ladies' hair-nets.
2 mosquito nets.
9 gents' caps.
11 pairs ladies' gauntlets.
9 silk ties.
4 linen kerchiefs.
21 boxes men's paper collars.
4 Cardigan jackets.
2 " "
5 Nubias.
1 doz. toilet soap.
1 " pearl white.
10 pairs children's shoes.
1 box jewelry.
8 boys' scarfs.
5 children's knit scarfs.
5 toy watches.
2 pairs suspenders.
13 " men's black gloves.
32 fish-lines.
7 bottles perfumery.
2 pairs canvass pants.
1 " knit mittens.
3 " linen pants.
17 mosquito bars.
21 linen coats.
7 linen vests.
5 men's drilling frocks.
2 doz. gents' gingham shirts.
½ " ladies' straw hats.
11 black chip hats.
5 white " "
3 woolen undershirts.
6 pairs gents' cotton drawers.
5 " " " shirts.
5 " overalls.
2 " men's cotton drawers.
2 Balmoral skirts.
4 pairs canvass overalls.
8 bustles.
10 gents' woolen shirts.
9 " " "
11 pairs fancy slippers.
8 " men's cotton socks.
23 4 pairs ladies' cloth gaiters.
6 gents' white shirts.
19 pairs gents' woolen socks.
5 " woolen mits.
6 " knit drawers.
6 " ladies' cotton hose.
2 knit shirts.
5 cotton undershirts.
3 pairs cotton socks.
1 gingham shirt.
2 men's scarfs.
4 boys' scarfs.
6 ladies' skirts.
2 small mirrors.
3 doz. cotton pocket 'kerchiefs.
4 checked shawls.
11 ladies' single shawls.
2 children's summer hats.
5 ladies' hats.
2 crash towels.
2 coverlets.
29 towels.
17 yds. red flannel.

Inventory—Continued.

36 " " "
19 yds. Moscow melton.
21 white flannel.
28 " royal dress plaids.
6 " Indian broadcloth.
6 men's rubber overcoats.
3 hoop-skirts.
3 woolen shirts.
10 pairs drawers.
2 " men's coarse boots.
7 " fine boots.
2 " coarse shoes.
4 " flannel undershirts.
2 " drawers.
44 yds. bleached cotton.
41 " white linen.
38 " cambric.
15 " cassimere.
45 " prints.
4 " "
27 " "
5 " "
38 " "
2½ " "
7 " "
29 " "
31 " "
11 " "
21 " "
3 " "
44 " "
9 " "
32 " yellow cotton.
24 10 yds. drilling.
47 " sheeting.
15 " grey flannel.
16 " " "
2½ " cassimere.
24 " table linen (colored).
39 " dress drilling.
50 " check flannel.
20 " bleached cotton.
5 " linen.
20 " muslin.
39 " muslin.
131 " factory cotton.
15 " prints.
38 " alpaca.
38 " "
29 " cambric.
37 " dress goods.
12 " black cambric.
44 " delaine.
49 " red alpaca.
13 " white muslin.
15 " " "
60 " lacis.
29 gingham.
27 " "
31 " "
5 " lawn.
45 yds. prints.
6 " "
35 " drab alpaca.
12 " prints.
19 " brown alpaca.
31 " prints.
28 " "
31 " blue cotton.
40 " prints.
16 " "
20 " "
19 " "
31 " "
10 large combs.
2 boxes hooks & eyes.
6 cards rubber cord.
1 stick elastic.
11 circular combs.
72 thimbles.
2 children's rattles.
2 cards brass buttons.
5 calf pocket books.
5 spools machine silk.
2 boxes skein silk.
3 dozen papers needles.
1 hair brush.
½ doz. fine combs.
8 pieces toilet soap.
25 28 yards lawn.
28 " "
35 " "
8 " prints.
6 " "
47 " "
37 " "
34 balls tape.
31 sticks braid.
21 " "
2 bunches trimmings.

Inventory—Continued.

6 red face powder.
1½ doz. pocket combs.
1½ " " knives.
1 " black lead pencils.
2 boxes horn combs.
1 tobacco pouch.
10 double blankets.
100 lamp chimneys.
12 hoop-skirts.
18 tin cups.
14 tea pots.
11 water pails.
6 tin strainers.
5 dippers.
52 tin plates.
3 six-quart tin pans.
19 wash dishes.
½ doz. small penknives.
23 lbs. rifle powder.
2 brush brooms.
72 lbs. wrapping paper.
31 pairs pants.
19 winter coats.
14 summer coats.
12 vests.
6 zinc washboards.
10 single blankets.
2 rubber blankets.
8 window sashes.
3 double-barrel shot guns.
1 Smith's carbine.
1 needle gun.
1 Springfield rifle.
1 Sharpe's revolver.
14 side dishes.
148 china plates.
21 platters—10 large, 11 small.
2 glass syrup cups.
3 " cream pitchers.
3 " butter dishes.
5 " sauce "
3 " sugar "
3 spoon-holders.
9 papers tacks.
4 nail hammers.
26 4 coffee pots.
½ box clothes' pins.
3 nail hammers.
4 hatchets.
2 drawing knives.
1 bung auger.
23 platters—11 small & 12 large.
16 sauce dishes.
6 small side dishes.
72 pieces brown earthernware.
10 large wash bowls.
6 water pitchers.
4 sugar bowls.
5 butter stamps.
10 lbs. tapioca.
17 kerosene lamps.
70 boxes shoe blacking.
43 papers stove polish.
105 tumblers.
33 bar bottles.
4 Stoughton bottles.
12 scythe stones.
6 fine whetstones.
1 half-inch auger.
48 lamp wicks.
3 cork wicks.
23 # rifle powder.
9 8-in. flat files.
5 brush brooms.
½ gross stove polish.
9 lamp chimneys.
12 blacking brushes.
2 scrubbing "
6 earthern toys.
1 caster.
10 balls twine.
½ doz. glass sauce dishes.
1 sugar bowl.
2 spoon-holders, white glass.
22 lbs. lemon sugar.
2 pewter lemonade shakers.
68 cases fruit.
1 lb. rifle powder.
39 lbs. salaratus.
7 p'k'g Twin Brother's yeast cakes.
12 tea spoons.
10 door locks & knobs.
23 butcher knives.
6 powder flasks.
11 bottles castor oil.
13 " hair oil.
24 boxes pills.
2 bottles eye water.

Inventory—Continued.

6 boxes sedlitz powders.
12 papers corn starch,
30 lbs. ground coffee, choice Rio in cans.
27 28 ≠ rifle powder.
5 pairs butts & screws.
8 bottles pickles.
8 lbs. cream of tarter.
5 " mustard.
3 " nutmegs.
4½ " cloves.
4 " ginger.
6 " red pepper.
6 " starch.
3 " salts.
4½ " sulphur.
5 " senna.
16 " beads.
400 rifle caps.
9 small cans baking powder.
48 cans fruit.
138 " "
22 " condensed milk.
6 cans fruit.
50 " meats.
19 boxes sardines.
100 papers tacks.
22 bottles patent medicines.
4,900 boxes gun caps.
6 doz. rat-traps.
70 lbs. 12-penny nails.
95 " 20- " "
98 papers gelatine.
48 ≠ shot.
18 papers allspice.
13 bottles ink.
2 boxes fish-hooks.
47 lbs. tobacco.
7 lbs. fine-cut tobacco.
28 sacks salt.
15 lbs. lard.
2 coffee mills.
1 box lamp chimneys.
44 boxes axle grease.
24 cans tomatoes.
23 " corn.
8 axes.
2 scythes.
18 boxes matches.
6 boxes washing blue.
1 box toilet soap.
28 lbs. ham.
15 bottles French mustard.
5 " Worcester sauce.
167 " mixed bitters.
40 lbs. nails, 40-penny.
90 lbs. shingle nails.
10 common plates.
2 Indian mats.
3 window sashes.
28 150 lbs. nails.
108 " crushed sugar (gross w.).
36 " tea " "
112 " pulverized " (gross).
142 " brown " "
84 " maple sugar.
¾ bbl. salt.
93 ≠ d'd apples, gross.
20 window lights 14 x 16.
2 reflectors.
12 hay rakes.
11 hay forks.
2 axe helves.
4 shovels.
2 spades.
2 tin measures.
2 funnels.
1 watering pot.
12 scythe snaths.
3 " blades.
12 lamp shades.
1 tin platter.
8 scythes.
7 spittoons.
7 chamber pots.
2 earthen water pitchers.
3 tea pots.
23 bowls.
1 peg rasp.
1 cheese box.
20 galls. bitters.
10 " vinegar.
10 " Iron Mountain whiskey.
2 " cherry brandy.
1½ " sherry.
1 " Bourbon whiskey.

* *

Inventory—Continued.

* *
5 " strawberry syrup.
7 " lemon syrup.
11 brooms.
3 pairs scissors.
47 lbs. rat furs.
53 " " "
55 " " "
57 " " "
33½ " skunk fur.
10 " " "
40 " " "
64 " rat "
52 " " "
55 " " "
53 " " "
63 " " "
53 " " "
52 " " "
*4 galls. Bourbon whiskey.
*2 galls. Jamaica rum.
29 4 meat plates.
51 lbs. rat fur.
52 " " "
49½ " " "
49 " " "
60 " bear & skunk fur.
127 " rat fur.
36 " " " in sack.
42 " " " " "
72 " " " " "
3 wolf pelts.
2 otter.
33 fox pelts.
38 gallons Bourbon whiskey.
2 bushels white beans.
1 set Fairbank's store scales.
73 lbs. rat fur.
51 " " "
60 " " "
69 " " "
68 " " "
122 " " "
122 " " "
76 " " " in sack.
26 " " " " "
5 lynx pelts.
36 mink "
61 weasel "
6 bear & cub.
3 pair' shoe packs.
9 pair' boot packs.

(Indorsed:) District court of U. S. district of Minnesota. United States vs. Thirty-three Fox Pelts and other property. Libel. Filed March 19, 1874. Wm. A. Spencer, clerk. Wm. W. Billson, U. S. att'y
30 for Minn. Schedule referred to in annexed monition. Wm. A. Spencer, clerk.

Inventory of B. B. Larivier's stock.

11 pairs ladies' slippers.
19 " mens' boots.
64 " mens' shoes.
18 sacks shot, 25 lbs. each.
71 pairs shoes & slippers.
4 boxes cartridges, cal. No. 44.
8 cards ladies' glass buttons.
1 box Indian paint.
20 cards shirt buttons.
4 pack' envelopes, small.
7 " " large.
63 boxes thread, skein & spool.
3 cards coat buttons.
4 doz. pocket mirrors.
½ " pewter boxes.
2 " ladies' hose.
1 ream paper.
5 neckties.
4 doz. chalk lines.
3 " boot laces.
3 chalk lines.
2½ doz. jewsharps.
14 pair' ladies' woolen hose.
1 box fish hooks.
8 pair' elastics.
½ doz. shaving soap.
31 ½ doz. white felt hats.
⅓ " hats, felt.
2½ " men's cotton socks.
3 children's hats.

Inventory—Continued.

3 doz. chalk lines.
9 chip hats.
1 stick lace.
8 pairs men's cotton gloves.
4 white pocket 'kerchiefs.
7 small mirrors.
11 boxes paper collars.
7 pairs mittens, buck.
2 " suspenders.
32 fish lines.
6 pair' ladies' elastics.
19 wooden pipes.
5 pair' gents' white shirts.
5 parlor sponge balls.
2 mosquito nets.
11 pair' ladies' gauntlets.
4 linen 'kerchiefs.
4 Cardigan jackets.
5 nubias.
1 doz. pearl white.
1 box jewelry.
5 children's knit scarfs.
6 gents' white shirts.
3 pair' cotton socks.
¼ doz. hats, felt.
2 black hats.
2 pair' children's stockings.
1 large clock.
5 black felt hats.
46 bolts ribbon.
13 children' felt hats.
½ doz pair' worsted gloves.
2 large mirrors.
3 pairs ladies' hose.
5 pairs buck gloves.
5 toy watches.
13 pair' men's buck gloves.
7 bottles perfumery.
10 bottles mucilage.
1 dozen linen 'kerchiefs.
5 hair brushes.
2 ladies' hair nets.
9 gents' caps.
9 silk ties.
21 boxes men's paper collars.
2 Cardigan jackets.
1 doz. toilet soap.
10 pair' children' shoes.
8 boys' scarfs.
4 pairs ladies' cloth gaiters.
19 pair' gents' woolen socks.
5 " woolen mits.
32 6 pair' knit drawers.
2 knit shirts.
2 pair' canvass pants.
3 " linen pants.
21 linen coats.
5 men's drilling frocks.
½ doz. ladies' straw hats.
5 chip white hats.
6 pair' gents' cotton drawers.
2 pair' overhauls.
2 balmoral skirts.
8 bustles.
9 gentlemen's woolen shirts.
8 pair men's cotton socks.
3 hoopskirts.
10 pair drawers.
7 " fine boots.
4 flannel undershirts.
1 gingham shirt.
4 boys' scarfs.
2 small mirrors.
4 checked shawls.
2 children's summers hats.
2 crash towels.
29 towels.
36 yds. red flannel.
21 " white "
6 " Indian broadcloth.
6 pair ladies' cotton hose.
2 cotton undershirts.
2 pair knit mittens.
17 mosquito bars.
7 linen vests.
2 doz. gents' gingham shirts.
11 black chip hats.
3 woolen undershirts.
5 pair gents' cotton shirts.
2 pair men's cotton drawers.
4 " canvass overhauls.
10 gentlemen's woolen shirts.
11 pair gents' fancy slippers.
½ doz. men's rubber overcoats.
3 woolen shirts.
2 pair men's coarse boots.
2 " coarse shoes.
2 " drawers.
2 men's scarfs.
6 ladies' skirts.

Inventory—Continued.

3 doz. cotton pocket 'kerchiefs.
11 ladies' single shawls.
5 ladies' hats.
2 coverlets.
17 yds. red flannel.
19 " Moscow melton.
28 " royal dress plaids.
10 " drilling.
33 47 yds. sheeting.
16 " grey flannel.
21 " table linen, colored.
50 " check flannel.
5 " linen.
39 " muslin.
44 " bleached cotton.
38 " cambric.
45 " prints.
27 " "
38 " "
7 " "
31 " "
21 " "
44 " "
32 " yellow cotton.
6 " prints.
12 " prints.
31 " "
31 " blue cotton.
16 " prints.
19 " "
15 " "
38 " alpaca.
37 " dress goods.
44 " delaine.
13 " white muslin.
60 " lace.
15 yds. grey flannel.
2½ " cassimere.
39 " dress drilling.
20 " bleached cotton.
20 " muslin.
13 " factory cotton.
41 " white linen.
15 " cassimere.
4 " prints.
5 " "
2½ " "
29 " "
11 " "
3 " "
9 " "
45 " "
35 " drab alpaca.
19 " brown alpaca.
28 " prints.
40 " "
20 " "
31 " "
38 " alpaca.
29 " cambric.
12 " black cambric.
49 " red alpaca.
13 " white muslin.
29 " gingham.
34 27 yds. gingham.
27 " lawn.
28 " "
35 " "
6 " prints.
37 " "
31 sticks braid.
2 bunches trimmings.
1½ doz. pocket combs.
1 doz. black lead pencils.
1 tobacco pouch.
2 boxes hooks & eyes.
1 stick elastic.
72 thimbles.
2 cards brass buttons.
5 spools machine silk.
3 doz. papers needles.
½ doz. fine combs.
½ dozen small penknives.
2 brush brooms.
31 pairs pants.
14 summer coats.
6 zinc washboards.
10 double blankets.
8 window sash.
1 Smith's carbine.
1 Springfield rifle.
100 lamp chimneys.
31 yds. gingham.
28 " lawn.
28 " lawn.
8 " prints.

Inventory—Continued.

47 " "
34 balls tape.
21 sticks braid.
½ red face powder.
1½ doz. pocket knives.
2 boxes horn combs.
10 large combs.
6 cards rubber cord.
11 circular combs.
2 children's rattles.
5 calf pocket books.
2 boxes skein silk.
1 hair brush.
8 pieces toilet soap.
23 lbs. rifle powder.
72 lbs. wrapping paper.
19 winter coats.
12 vests.
10 single blankets.
2 rubber "
3 double-barrel shot-guns.
1 needle gun.
1 Sharp's revolver.
12 hoop skirts.
35 18 tin cups.
11 water pails.
5 dippers.
3 six-quart tin pans.
4 coffee-pots.
3 nail hammers.
2 drawing knives.
23 platters, 11 small, 12 large.
148 china plates.
16 sauce dishes.
72 pieces brown earthenware.
6 water pitchers.
5 butter stamps.
17 kerosene lamps.
43 papers stove polish.
33 bar bottles.
2 glass syrup cups.
4 " butter dishes.
3 " sugar bowls.
9 papers tacks.
5 brush brooms.
9 lamp chimneys.
2 scrubbing brushes.
1 caster.
½ doz. glass sauce dishes.
2 spoon-holders, white glass.
2 pewter lemonade shakers.
1 lb. rifle powder.
4 tea-pots.
6 tin strainers.
52 tin plates.
19 wash dishes.
½ box clothes pins.
4 hatchets.
1 bung auger.
14 side dishes.
21 platters, 10 large & 11 small.
6 small side dishes.
10 large wash-bowls.
4 sugar bowls.
10 lbs. tapioca.
70 boxes blacking, shoe.
105 tumblers.
4 Stoughton bottles.
3 glass cream pitchers.
5 " sauce dishes.
3 spoon-holders.
4 nail hammers.
½ gross stove polish.
12 blacking brushes.
6 earthen toys.
10 balls twine.
1 sugar bowl.
22 lbs. lemon sugar.
68 cans fruit.
39 lbs. salaratus.
36 7 packs Twin-brothers yeast cakes.
10 door lock and knobs.
6 powder flasks.
6 fine whetstones.
48 lamp-wicks.
23 lbs. rifle powder.
28 " " "
8 bottles pickles.
5 lbs. mustard.
4½ lbs. cloves.
6 " red pepper.
3 " salts.
5 " senna.
400 rifle caps.
48 cans fruit.
22 cans condensed milk.
50 cans meats.

Inventory—Continued.

100 papers tacks.
4,900 gun caps.
13 bottles hair oil.
2 bottles eye-water.
12 papers corn starch.
98 papers gelatine.
18 " alspice.
2 boxes fish hooks.
7 lbs fine-cut tobacco.
15 lbs. lard.
1 box lamp chimneys.
12 tea spoons.
23 butcher knives.
12 scythe stones.
1 half-inch auger.
3 cork screws.
9 8-inch flat files.
5 pairs butts & screws.
8 lbs. cream of tarter.
3 lbs. nutmegs.
4 lbs. ginger.
6 lbs. starch.
4½ lbs. sulphur.
16 lbs. beads.
9 small cans baking powder.
138 cans fruit.
6 cans fruit.
19 boxes sardines.
22 bottles patent medicine.
11 " castor oil.
24 boxes pills.
6 boxes Seidlitz powders.
30 lbs. ground coffee, choice Rio, in cans.
48 lbs shot.
13 bottles ink.
47 lbs. tobacco.
28 sacks salt.
2 coffee mills.
44 boxes axle grease.
37 24 cans tomatoes.
8 axes.
18 boxes matches.
1 box toilet soap.
15 bottles French mustard.
16 " mixed bitters.
90 lbs. shingle nails.
70 " 12-penny nails.
150 " nails.
1,118 lbs. crushed sugar, gross w't.
112 " sugar pulverized, gross.
¾ barrel salt.
20 window lights, 14 x 16.
12 hay rakes.
2 axe helves.
2 spades.
2 funnels.
12 scythe snaths.
12 lamp shades.
8 scythes.
7 chamber pots.
3 tea pots.
4 meat plates.
2 Indian mats.
1 peg rasp.
20 galls. bitters.
10 " Iron Mountain whiskey.
1½ " sherry.
23 cans corn.
2 scythes.
6 boxes washing blue.
38 ham.
5 bott's Worcester sauce.
40 lbs. nails, 40-penny.
6 dozen rat traps.
95 lbs. 20-penny nails.
84 lbs. maple sugar.
36 lbs. tea, gross.
142 " brown sugar, gross.
93 " dried apples, gross.
2 reflectors.
11 hay forks.
4 shovels.
2 tin measures.
1 watering pot.
3 scythe blades.
1 tin platter.
7 spittoons.
2 earthenware pitchers.
23 bowls.
10 common plates.
3 window sash.
1 cheese box.
10 galls. vinegar.
2 galls cherry brandy.
1 gall. Bourbon whiskey.
38 2 galls. Jamaica rum.
5 " strawberry syrup.

Inventory—Continuev.

11 brooms.
47 lbs. rat fur.
55 " " "
33½ " skunk fur.
40 " " "
52 " rat "
53 " "
53 " "
73 " "
51 " "
60 " "
69 " "
68 " "
122 " "
122 " "
76 " rat fur, in sack.
26 " " " " "
5 lynx pelts.
36 mink "
61 weasel "
6 bear & cub.
3 pair' shoe packs.
2 bushels white beans.
1 wall tent, 16 by 26.
4 galls. Bourbon whiskey.
7 " lemon syrup.
3 pairs scissors.
53 lbs. rat fur.
57 " " "
10 " skunk fur.
64 " rat.
55 " "
63 " "
52 " "
51 " "
52 " "
49½ " "
49 " "
60 " bear & skunk.
127 " rat fur.
36 " " " in sack.
42 " " " " "
72 " " " " "
3 wolf pelts.
2 otter.
33 fox pelts.
38 galls. Bourbon whiskey.
9 pair' boot packs.
1 set Fairbanks store scales.

39 UNITED STATES OF AMERICA,
District of Minnesota, ss:

The President of the United States of America to the marshal of the district of Minnesota greeting:

Whereas a libel hath been filed in the district court of the United States for the district of Minnesota, on the nineteenth day of March, 1874, by William W. Billson, esq., attorney of the United States for the said district, on behalf of the United States of America against certain goods, wares, and merchandise, lately in the possession of Bernard Lariviere, of the village of Crookston, in the county of Polk, in said district, more particularly described in the annexed schedule, for reasons and causes in the said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said goods, wares, and merchandise may be cited in general and special to answer the premises, and all due proceedings being had that the said goods, wares, and merchandise may, for the causes in the said libel mentioned, be condemned and the proceeds thereof distributed according to law:

You are therefore hereby commanded to attach the said goods, wares, and merchandise, and to detain the same in your custody until the
40 further order of the court respecting the same and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned as forfeited, and the

proceeds thereof distributed according to the prayer of the said libel, that they be and appear before the said court, to be held in and for the district of Minnesota, at Saint Paul, on the first Monday of May, A. D. 1874, at 11 o'clock in the forenoon of that day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same, and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof together with this writ.

Witness the Hon. Rensselaer R. Nelson, judge of the said court, at St. Paul, in the district of Minnesota, this 19th day of March, A. D. 1874.

[SEAL OF COURT.] WM. A. SPENCER, *Clerk.*

WM. W. BILLSON,
U. S. Dist. Att'y.

DISTRICT OF MINNESOTA, *ss:*

In obedience to the within writ I did on the 1st day of April, 1874, at Crookston, in my district seize and attach all the within mentioned
41 property, and now have the same in my custody and possession; and I have duly cited all persons to appear and assert their claims as I am within commanded.

R. N. McLAREN,
U. S. Marshal,
By GEO. W. BAKER,
Dep'y.

Ordered that marshal's notice on the within writ be published in the St. Paul Daily Press.

March 26, '74.

R. R. NELSON, *Judge.*

(Indorsed:) U. S. district court, dist. of Minnesota. The United States vs. Thirty-three Fox Pelts and other property. Monition filed April 11, 1874. Wm. A. Spencer, clerk. Wm. W. Billson, U. S. dist. att'y.

42 *Affidavit of publication.*

STATE OF MINNESOTA,
County of Ramsey, ss:

Frederick Driscoll, being duly sworn, deposes and says that the annexed printed copy of marshal's notice of seizure was taken from the Saint Paul Daily Press, a newspaper which, during the whole time of publication of said notice hereinafter stated, has been and is printed in the city of St. Paul, county of Ramsey and State of Minnesota. That the said notice was published in said newspaper for the period of fourteen consecutive days, commencing on the 27th day of March, 1874, upon which day last mentioned it was first published, and ending on the 11th day of April, 1874, on which day last mentioned it was las tpublished, upon which days, or times of publication aforesaid the said newspraper was regularly published, and that during the whole time of the said publication he was one of the printers and publishers of the said newspaper.

FREDERICK DRISCOLL.

Subscribed and sworn to before me this 2d day of May, A. D. 1874.
[NOTARIAL SEAL.] J. MEESE,
Notary Public, Ramsey Co., Minn.

43 (Copy of notice mentioned in foregoing affidavit.)

Marshal's notice of seizure.

UNITED STATES OF AMERICA,
District of Minnesota, ss:

Whereas a libel of information hath been filed in the district court of the United States for the district of Minnesota, on the 19th day of March, A. D. 1874, by William W. Billson, esquire, United States attorney, in behalf of the United States of America, against 43 gallons of whiskey, ten gallons of Iron Mountain whiskey, 2 gallons of cherry brandy, 2 gallons of Jamaica rum, and 20 gallons of bitters, the said bitters being then and there composed, mainly, of alcohol, together with a large quantity of goods, packages, and peltries, fully and particularly described in the schedule to said libel attached, and on file in the clerk's office of said court, stating that the same were, on the 10th day of March, 1874, by R. W. Pratt, esquire, an Indian agent duly appointed by the United States, seized as forfeited to the use of the United States, and further stating and alleging that the said forfeiture was incurred by reason of, that Bernard Lariviere, a white person, late of the village of Crookston, in the county of Polk, in the district aforesaid, yeoman, heretofore, to wit, on the 2d day of
44 February, 1874, with force and arms unlawfully did carry and introduce in and upon some vehicle, boat, or conveyance, from some place outside of the Indian country into the country ceded to the United States by the Red Lake and Pembina bands of Chippewa Indians in and by the treaty between the United States and the said bands of Chippewa Indians made and concluded in Minnesota on the 2d day of October, in the year 1863, and proclaimed by the President of the United States on the 5th day of May, 1864, certain spirituous liquors, which said introduction of spirituous liquors was then and there in violation of the provisions of section 20 of the act of Congress entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved June 30, 1834, as amended by the act of Congress entitled "An act to amend an act entitled 'An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers,'" approved March 15, 1864, and for other reasons, as will more fully appear by reference to the said libel of information on file with the clerk of said court, and praying the usual process and monition of the said court, that all persons interested in the said property in said libel described, may be cited to answer the premises, and all due proceedings being had, that said
45 goods, wares, and merchandise may, for the causes in the said libel mentioned, be condemned and the proceeds thereof distributed according to law.

Therefore, in pursuance of a monition under the seal of the said court to me directed and delivered, I do hereby give notice unto all persons generally, having or pretending to have any right, title, or interest therein, to appear before the aforesaid court in the city of St. Paul, on the first

Monday in May, 1874, at 11 o'clock in the forenoon of said day, if the same should be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, to interpose a claim for the same, and to make their allegations in that behalf.

Dated at St. Paul, this 27th day of March, 1874.

R. N. McLAREN,
U. S. Marshal.

WM. W. BILLSON,
U. S. Attorney.

(Indorsed:) U. S. district court, district of Minnesota. The United States vs. 43 Gallons of Whiskey, &c. Affidavit of publication of notice. Filed May 4, 1874. Wm. A. Spencer, clerk, by H. E. Mann, dep.

46 District court of the United States for the district of Minnesota.
In admiralty.

Whereas a libel was filed in the district court of the United States for the district of Minnesota, on the nineteenth day of March, one thousand eight hundred and seventy-four, by Wm. W. Billson, esq., attorney of the United States for said district, on behalf of the United States of America, against certain goods, wares, and merchandise, lately in the possession of Bernard B. Lariviere, who is the claimant herein, for the reasons and causes in said libel mentioned; and whereas the said goods, wares, and merchandise are now in the custody of the marshal under the process or attachment issued in pursuance of the prayer of said libel, and are of the value of five thousand two hundred and thirty-two and $\frac{28}{100}$ dollars, as appears by an appraisement thereof now on file in said court, and the parties hereto hereby consenting and agreeing that in default or contumacy on the part of the claimant or his sureties execution may issue against their goods, chattels, and lands:

Now, therefore, it is hereby stipulated, for the benefit of whom it may concern, that the stipulators undersigned, and each of them, is bound in the sum of five thousand two hundred and ninety-two and
47 $\frac{28}{100}$ dollars, conditioned that they shall at any time, upon the interlocutory and final order or decree of the said district court, or of any appellate court to which the above-named suit may proceed, and upon notice of such order or decree to said claimant, or to Davis, O'Brien & Wilson, esq'r's, his proctors, pay into court the full value aforesaid, and abide by and pay the money awarded by the final decree rendered by this court or the appel'ate court, if any appeal intervene.

BERNARD B. LARIVIERE,
By BEAUPRE & KELLY.
BRUNO BEAUPRE.
CHARLES SCHEFFER.

Taken and acknowledged this 21 day of May, 1874, before me.

WM. A. SPENCER,
U. S. Commissioner, Minnesota.

DISTRICT OF MINNESOTA, *ss:*

Charles Scheffer and Bruno Beaupre, parties to the above stipulation,

being duly sworn, deposes and says, each for himself, that he is worth the sum of five thousand two hundred and ninety-two and $\frac{28}{100}$ dollars over and above all his just debts and liabilities.

BRUNO BEAUPRE.
CHARLES SCHEFFER.

Sworn to this 21st day of May, 1874, before me.

WM. A. SPENCER,
U. S. Commissioner, Minnesota.

48 (Indorsed:) United States district court, district of Minnesota. The United States vs. Forty-three Gall's Whiskey, &c. Claimants' stipulation for appraised value. Filed May 21, 1874. Wm. A. Spencer, clerk. Davis, O'Brien & Wilson, proctors for claimant Lariviere.

49 In the district court of the United States, district of Minnesota.

THE UNITED STATES
vs.
38 GALLONS OF WHISKEY, AND OTHER PROPERTY, and Bernard Lariviere, claimant.

And now comes the above-named Bernard Lariviere and, saving to himself all manner of right of exceptions to the manifold errors and insufficiencies contained in the information herein, makes answer unto said information, and avers and says:

He denies that he ever unlawfully or otherwise carried or introduced into the country described in the first article of said information any spirituous liquors whatever in violation of any law or otherwise.

He admits that he owns the goods, packages, and peltries described in the schedule annexed to the information, except said spirituous liquors, the ownership of which he disclaims and denies, and avers that he never did own the same or any part thereof.

He denies that R. M. Pratt was ever an Indian agent duly appointed by the United States, or otherwise; he denies that said Pratt ever
50 had reason to suspect or was ever informed that this claimant had ever introduced any spirituous liquors into said country; he admits and avers that the said Pratt, with force and arms, and without authority of law, searched and caused to be searched the stores, packages, and peltries of this claimant, and the place of deposit thereof, which place was the residence and store of the said Lariviere, this claimant; but he denies that upon such search the said spirituous liquors were then, or ever, found stored, packed, or mingled with the aforesaid goods, packages, peltries, or places of deposit.

He admits that said Pratt seized all of said property, but he avers that he did so with force and arms, wrongfully and unlawfully, and without warrant or authority in law.

In answer to the second article contained in said information this claimant denies that he ever unlawfully or otherwise carried or introduced into the country described in said article with intent to sell or dispose or to distribute the same to and among any Indians, at any place, any spirituous liquors whatever; he denies that he ever carried or introduced any spir-

ituous liquors whatever into any of the country described in the information.

He avers that all the acts charged against him in each and every
51 article of the said information were by the order, authority, and consent of the War Department, and of officers duly authorized thereto by said department. He denies that R. M. Pratt was ever an Indian agent, duly appointed by the United States or otherwise. He denies that the said Pratt ever had reason to suspect or was ever informed that this claimant had ever introduced any spirituous liquors into said country; he admits and avers that the said Pratt, with force and arms and without authority of law, broke into and searched, and caused to be searched, the stores, packages, and peltries of this claimant, and the place of deposit thereof, which place was the dwelling house and store of this claimant; and he denies that upon such search any of the said spirituous liquors were then or ever found stored, packed, or mingled with the aforesaid goods, packages, peltries, or places of deposit. He admits that said Pratt seized all of said property, but he avers that he did so with force and arms, wrongfully and unlawfully, and without warrant or authority in law.

He admits that he owns the goods, packages, and peltries described in the schedule annexed to the information, except said spirituous liquors, the ownership of which he disclaims and denies, and avers that he
52 never did own the same or any part thereof.

For answer to the third article contained in said information he denies that he ever, unlawfully or otherwise, introduced into the country therein described any spirituous liquors whatever, in violation of any law or otherwise. He admits that he owns the goods, packages, and peltries described in the information, except said spirituous liquors, the ownership of which he disclaims and denies, and avers that he never did own the same or any thereof.

He denies that R. M. Pratt was ever an Indian agent, duly appointed by the United States or otherwise; he denies that the said Pratt ever had reason to suspect or was ever informed that this claimant had ever introduced any spirituous liquors into said country; he admits and avers that certain persons with force and arms and without authority of law, broke into and searched and caused to be searched the stores, packages, and peltries of this claimant, and the place of deposit thereof, which place was the dwelling-house and store of the said Lariviere; he denies that upon such search the said spirituous liquors were then or ever found stored, packed, or mingled with the aforesaid goods, packages, peltries, or place of deposit.

He admits that said Pratt seized all of said property, but he
53 avers that he did so with force and arms, wrongfully, unlawfully, and without warrant or authority of law.

Second. Further answering, each and every article in said information contained, this claimant denies, severally and specifically, each and averment contained in each of said articles, save and except as elsewhere admitted or otherwise alleged in this answer.

Third. For a further defence the claimant avers that the said spirituous liquors were not introduced into the said country for sale or in contravention of any law or treaty.

Fourth. For a further answer the claimant avers that the said liquors

were introduced into said country by order of the War Department and under its authority, and by order of and under the authority of officers duly authorized thereunto by the War Department.

Wherefore he prays judgment that this action may be dismissed, and that the said property, so owned by him, may be restored to him, and that the name of the person claiming the moiety herein as informant or otherwise may be ascertained by the court, and such person be made a
54 party to this action, and that this claimant may have judgment against such person for his costs and disbursements.

DAVIS, O'BRIEN & WILSON,
Proctors for B. Lariviere.

(Indorsed:) District court of U. S., district of Minnesota. The United States vs. 38 Gallons of Whiskey & other property & Bernard Lariviere. Answer. Filed Aug. 29, 1878. Wm. A. Spencer, clerk. Davis, O'Brien & Wilson, proctors for B. Lariviere, St. Paul, Minn.

55 United States district court, district of Minnesota.

THE UNITED STATES OF AMERICA
against
43 GALLONS OF WHISKEY AND OTHER PROPERTY, B. B. Lariviere, claimant.

And now comes the above-named defendant and (leave so to do having been stipulated) amends and adds to his answer heretofore interposed herein by inserting after the fourth article of said answer the following averment, to wit:

Fifth. He avers that long prior to the date of any of the pretended wrongful acts and omissions alleged against him in the information, and long prior to February 1, 1874, all laws of the United States which were ever in force prohibiting the introduction and sale, or either, of spirituous liquors in the Indian country ceased to be in force in the territory described or referred to in the information, by direction of Congress and by direction of the President, which were duly given and made to that effect and intent, and for that object.

56 Sixth. He avers that long prior to the date of any of the pretended wrongful acts and omissions alleged against him in the information, the United States and its proper legislative and executive officers, in that behalf duly proceeding, did, under the authority of that certain act of Congress entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868, and the acts amendatory thereof and the acts in force prior to July 20, 1868, passed for the purpose of collecting internal revenue, did establish in and throughout and in all the territory referred to in the information, and in and over all the territory which was ceded to the United States by the treaty between the United States and the Red Lake and Pembina bands of Chippewa Indians, concluded October 3, 1863, and proclaimed May 5, 1864, a collective district for the collection of all taxes or licenses imposed or collectible by or under the provisions of such statutes; which collection district particularly included the county of Polk, at the town or village of Crookston, and did

from a prior date to July 20, 1868, and continuously thereafter down to the present time, assess and collect such taxes, and upon persons resident and doing business in said territory, county, and town, and particularly upon those persons who are engaged in the business of retail sellers of
57 spirituous liquor as defined in said act; that during all the period aforesaid, there were many persons so engaged, assessed, and taxed as retail liquor dealers in such territory, country, and town, and that they were assessed, taxed, and collected of in the same manner as persons engaged in like business throughout the United States, and were thereby licensed and permitted to carry on such business in such places, and to sell spirituous liquor at such places.

That among the persons engaged as retail dealers in liquor in said territory and who were assessed and paid taxes therefor as aforesaid, were—

Stewart & Morrison, at Red Lake River Crossing, Polk County, who were assessed $20.83 in July, 1872, for doing such business at that place, and paid said tax;

S. Shepard, at crossing of the Pembina branch of the railroad, Red River, Polk County, who was assessed $18.75 in July, 1872, for doing such business at that place, and paid said tax;

N. G. Woodruff, at Snake River, in Pembina County, who was assessed $20.83 in July, 1872, and who paid such tax;

L. W. McLear, at Snake River, in Polk County, who was assessed $18.75 in August, 1872, for doing such business at that place, and paid said tax;

58 Jerome Frank, at Red Lake Crossing, who was assessed $14.58 in October, 1872, for doing such business at that place, and paid such tax;

Barb & Wenzel, at Crookston, who were assessed $25 in May, 1873, for doing such business at such place, and paid such tax.

The defendant further avers that during the years 1870, 1871, 1872, and 1873 many other persons than those above named, whose names defendant cannot give, for the reason that he is not yet informed thereof, were assessed, taxed, and licensed to do business as retail dealers of spirituous and alcoholic liquors in said territory and places.

He further avers that by the terms of said assessment and licenses they were so authorized to transact such business until 30th day of April next succeeding such assessments.

The defendant further avers that on the 21st day of July, 1873, he was, and that for a long time prior thereto he had been, engaged as a general merchant at said Crookston; that on July 1, 1873, this defendant was duly assessed as a retail liquor dealer at Crookston under the statutes before mentioned, the sum of $25 for the year commencing May 1,
59 1873, and ending April 30, 1874; that on the 21st day of July, 1873, he paid to the United States said $25, which was exacted of him and paid by him as a tax or license giving him the right and privilege to bring and introduce spirituous liquors into said territory and to Crookston for the period of one year, and to have and sell the same there, and that upon such payment he received from the United States the receipt prescribed by statute; that he so remained in business at said Crookston until his stock was seized and his business broken up in February, 1874, by the unlawful seizure made in this proceeding.

That the United States has always retained, has never offered back, and still has, said $25. That his aforesaid license receipt and right to sell conferred by the aforesaid premises has always since its date remained fully operative, and has never been revoked or in any way modified.

DAVIS, O'BRIEN & WILSON,
Att'ys for B. B. Lariviere.

It is stipulated that the annexed may be filed as amendatory and additional to the answer herein; that it is to be considered at issue without any replication, and that this stipulation and said amendment shall not be cause to delay this trial.

DAVIS, O'BRIEN & WILSON,
Att'ys for B. B. Lariviere.
WM. W. BILLSON, *U. S. Att'y.*

(Indorsed:) U. S. dist. court, Minnesota The United States vs. Forty-three (38) Gallons of Whiskey, &c. B. Lariveire, claimant. Amendment and addition to answer.

Due service admitted.

WM. W. BILLSON, *Dist. Att'y.*

Filed Sep. 27, 1878. Wm. A. Spencer, clerk.

In the district court of the United States, district of Minnesota.

THE UNITED STATES)
vs.
38 GALLONS OF WHISKEY AND OTHER PROPERTY.)

I. And now comes Clovis Guerin, and saving to himself all manner of exceptions to the manifold errors and insufficiences contained in the information herein, says he has no knowledge or information sufficient to form a belief as to whether or not Bernard Lariviere, unlawfully or otherwise, ever carried or introduced into the country described in the first article of the libel herein any spirituous liquors, and therefore denies the same.

He denies that said Lariviere was the owner of the furs and peltrées embraced in the libel herein, and seized by R. M. Pratt herein, at the time or occasion referred to in said libel of the alleged introduction of said alleged liquors into the country therein referred to, but, on the contrary, he avers that long prior to said time and alleged occasion, the said Lariviere transferred the same and the possession thereof to said Clovis Guerin, as collateral security for the payment of an indebtedness from said B. B. Lariviere, amounting to $2,075.06, and interest from March 31, 1874, incurred for labor performed by said Guerin for said Lariviere, and which has never been paid.

Said Guerin admits that R. M. Pratt, referred to in the libel herein, seized said property at the time stated in said libel, but this claimant avers that the said property was then in the actual possession of this claimant, held by him as collateral security as aforesaid, and this claimant avers that this claimant did not introduce any spirituous liquors into the

country referred to in said libel, or do any act or thing whatever whereby his interest or title in said goods was impaired or forfeited.

Said Guerin denies that said Pratt was ever an Indian agent, duly appointed by the United States or otherwise, or ever had reason to suspect or was ever informed that said Lariviere had introduced any spirituous liquors into the said country, and he denies that the store or building wherein was said property at its seizure, was the store of said Lariviere,

63 but, on the contrary, avers that the same was the store of this claimant, and he denies that spirituous liquors were ever found stored, packed, or mingled with the aforesaid property or alleged places of deposit.

He admits that said Pratt seized all of said property, but avers that he did so with force and arms, and unlawfully.

For answer to the second article of said libel, this claimant says he has no knowledge or information sufficient to form a belief as to whether or not the said Lariviere did any of the acts charged against him in the said second article and he therefore denies the same. He denies that said Pratt was ever an Indian agent, duly appointed or otherwise, or that he had reason to suspect or was ever informed that said Lariviere or this claimant ever introduced liquor into the said country; and this claimant denies that said Lariviere was the owner of the goods herein referred to, or any part thereof, but avers that the same were transferred to this claimant and held by him as collateral security as aforesaid at the time, place, and manner hereinbefore stated; and this claimant avers that he never did any act or thing whatever as to the introduction of spirituous liquors into said country, or otherwise, whereby his title to said goods could be affected or impaired.

And this claimant denies each and every thing and matter contained in said article, except that said Pratt seized and took into his possession the said property, and which this claimant avers was unlawful and without authority.

64 II. Further answering each and every article contained in said libel, this claimant denies, severally and specificially, each and every averment therein contained, save and except as herein admitted.

Wherefore this claimant prays judgment that this action may be dismissed, and that the said property so owned and claimed by him may be restored to him, and that the name of the person claiming the moiety herein as informant or otherwise may be disclosed to him or otherwise ascertained by the court, and such person be made a party to this action, and that this claimant may have judgment against such person for his costs and disbursements, and that this claimant may have such other and further relief in the premises as may be just.

J. V. D. HEARD,
Proctor for Clovis Guerin, St. Paul.

SEP. 12, 1878.

(Indorsed:) United States dist. court. United States vs. Peltries, Furs, &c., B. B. Lariviere et al., claimants. Clovis Guerin, claimant. Filed Oct. 2, 1878. Wm. A. Spencer, clerk. J. V. D. Heard, proctor for claimant.

65 U. S. district court for the district of Minnesota.

Term minutes, October term, A. D. 1878, *October* 9, 1878.

WEDNESDAY MORNING.

Court opened pursuant to adjournment.
Present, Hon. Rensselaer R. Nelson, judge.

THE UNITED STATES, LIBELLANT,
vs.
FORTY-THREE FOX PELTS, AND OTHER PROPERTY, Bernard Lariviere, claimant.

This cause coming on to be tried, Wm. W. Billson, esq., district attorney, appeared for the libellant, and Davis, O'Brien & Wilson, esq'rs, for the claimant; whereupon a jury being called, came, viz: John White, Wm. H. Kelly, G. W. Gillinbech, George W. Baird, Henry Shelton, James Middleton, W. E. Jones, T. B. Clausen, W. Blanchard, George W. Hart, W. P. Conkey, John Oakes, who are duly impaneled and sworn.

During the impaneling of the jury Matthias Thies and Patrick Conden were challenged peremptorily by the district attorney, and S. R. Robbins and John D. Pollock were challenged peremptorily by the proctors for claimant.

Wm. Billson opens the case for the libellant.

66 M. V. Nichols is sworn and examined as a witness for libellant.
W. H. Stewart " " " " " " "
C. A. H. Beaulien is sworn as interpreter.
Mazhe-ke-ash is sworn and examined as a witness for libellant.
O-nuck-uck-ena " " " " " " " "
C. P. Allen " " " " " " " "
W. L. Perkins " " " " " " " "
Maurice Lyons " " " " " " " "
F. J. Rottplatz " " " " " " " "
J. D. Sargent " " " " " " " "
Albert Church " " " " " " " "
Frank Jordan " " " " " " " "
E. C. Davis " " " " " " " "
D. Jacobus " " " " " " " "

And here the libellant rests its case.
Mr. Davis opens the case for the claimant.
Wm. Bickel is sworn and examined as a witness for claimant.
Samuel H. Nichols " " " " " " "
And here the claimant rests his case.

U. S. district court for the district of Minnesota.

Term minutes, October term, A. D. 1878, *October* 10, 1878.

THURSDAY MORNING.

Court opened pursuant to adjournment.
Present, Hon. Rensselaer R. Nelson, judge.

67 THE UNITED STATES, LIBELLANT,
vs.
FORTY-THREE FOX PELTS AND OTHER PROPERTY, Bernard Lariviere, claimant.

This cause coming on to be further tried the parties appeared by their respective proctors, and the jury heretofore impaneled and sworn herein being called also came.

Mr. Davis sums up for the claimant.

Mr. Billson sums up for the libellant.

Charge is given the jury by the court, and they retire in charge of an officer duly sworn and qualified to attend them.

U. S. district court for the district of Minnesota.

Term minutes, October term, A. D. 1878, *October* 11, 1878.

FRIDAY MORNING.

Court opened pursuant to adjournment.
Present, Hon. Rensselaer R. Nelson, judge.

THE UNITED STATES, LIBELLANT,
vs.
FORTY-THREE FOX PELTS AND OTHER PROPERTY, Bernard Lariviere, claimant.

68 This cause coming on to be further heard, the parties appeared by their respective proctors, and the jury heretofore impaneled and sworn herein came into court and say they find a verdict for the claimant, Bernard Lariviere.

Whereupon the attorney for libellant made a motion to the court for a certificate of probable cause for seizure, and upon like motion ordered that all proceedings upon such verdict be stayed until a bill of exceptions is settled and filed herein, not exceeding thirty days.

U. S. district court for the district of Minnesota.

Term minutes, October term, A. D. 1878, *November* 18, 1878.

MONDAY MORNING.

Court opened pursuant to adjournment. Present, Hon. Rensselaer R. Nelson, judge.

THE UNITED STATES, LIBELLANT,
vs.
FORTY-THREE FOX PELTS AND OTHER PROPERTY, Bernard Lariveire, claimant.

A bill of exceptions having been duly settled and filed herein, now, on

motion of C. K. Davis, esq., on behalf of claimant, for judgment
69 upon the verdict heretofore rendered herein, it is by the court considered, ordered, and adjudged that the libel herein be, and the same is hereby, dismissed upon the merits, and the said property having been delivered to the said claimant Bernard Lariviere, upon his bond, duly executed to the United States for that purpose, that the said bond be, and the same is hereby, determined, and the obligors therein exonerated.

Bill of exceptions.

United States district court, district of Minnesota.

THE UNITED STATES
against
43 GALLONS OF WHISKEY, 33 FOX PELTS, AND other property, Bernard Lariviere and Charles Grant, claimants.

This cause came on for trial of the issues of fact raised therein at the general October term of said court, A. D. 1878, before Hon. R. R. Nelson, judge of said court, and a jury duly impaneled and sworn for that purpose.

70 The plaintiff, to sustain the issues on its part, called as a witness M. V. NICHOLS, who, being first duly sworn, testified as follows:

I know the town of Crookston and its location. It is in the county of Polk, in this State. It is in the territory ceded to the United States by the Red Lake and Pembina bands of Chippewa Indians in and by the treaty between the United States and those bands of Indians made and concluded in Minnesota on the 2d day of October, A. D. 1863. I was there twice during the winter of 1873–'4. The second time was, I think, about or a little before the middle of March. I then knew Bernard Lariviere. Had seen him before that; knew his place of business in Crookston. He was a merchant. I went there under instructions. This is one of the letters of instruction under which I was acting. It is signed by the Acting Commissioner of Indian Affairs. I know his signature. It is genuine.

(The witness exhibits the letter referred to, which is offered in evidence by the plaintiff. The counsel for the claimant Lariviere objects to its introduction, on the ground that the acts of witness, so far as they concern this case, were in excess of the authority conferred by these instructions.

Objections overruled by the court, to which ruling the counsel
71 for said claimant excepts, and his exception is noted. The letter was received in evidence and marked Exhibit A, a copy of which is hereto attached and made a part hereof.)

I was also acting under this letter of instructions from the United States Indian agent at the Red Lake and the White Earth Indian Reservations.

(This letter was offered and received in evidence and marked Exhibit B, and a copy of the same is hereto attached and made a part hereof. R. M. Pratt was at that time United States Indian agent at Red Lake Reservation. A detachment of soldiers had been detailed to support me

in making the seizure of this stock. They arrived at Crookston before I did. When I arrived I told Lieutenant Gates, who was in charge of the soldiers, to come with me with three or four soldiers. He went into Lariviere's store and found his daughter apparently in charge. I asked her if they had some liquor. She said she did not know. I walked behind the counter where there were such bottles and glasses as are usually found in a bar, and pouring some Bourbon whiskey out of a bottle into two glasses, gave one to Lieutenant Gates and tasted one myself.

72 I then seized the entire stock of merchandise and furs. I found in the building all the goods and furs described in the information on file in this case, including the spirituous liquor. The liquors were mostly in barrels or kegs piled up near the middle of the main room. There was a considerable quantity of bitters—some Iron Mountain whiskey and Bourbon whiskey, besides some brandy and so forth—nearly three barrels in all. Some of the furs, about one-eighth of the entire lot, were in the main room where the liquors were; the rest were in a little room just back of the kitchen. They were all in the same building. A part of the building was occupied for living purposes by Lariviere's family. The next morning I got George Myers, W. H. Stewart, and another man to help me inventory the stock. I then kept all the property in custody at Crookston until it was afterwards taken possession of by the United States marshal under the writ of this court.

On his cross-examination the witness testified as follows:

Lariviere was not at home at the time of the seizure. I did not see him at all while I was there that time. Don't know that he has been back to Crookston since. Did hear that he had gone over the line into Manitoba.

73 Mrs. Lariviere and her daughter were home. I don't know whether I found in the building a special tax stamp issued to Lariviere as a retail dealer in liquors at Crookston. There may have been such. There was one for tobacco, and I think very likely one for liquor too. I did not seize any other stock than Lariviere's. Could not find that any one else was selling liquor in Crookston at that time. Some persons had been doing so before, but had gone out of the business. There were liquors kept at some other points in the ceded territory in question. The Hudson Bay Company had a large stock of goods at Grand Forks in the ceded tract, and I believe kept liquors there. The railroad was constructed to Crookston at that time, and during the summer the steamboats on the Red River ran through this ceded tract. I did not take Larivier's household goods, pictures, or anything of that kind. I did not take soldiers with me into the rooms where his family were living. I have stated all the authority I had to make the search and seizure. Did not make it under or by virtue of the writ or warrant of any court. I claim as informer a moiety of the proceeds of this seizure. There were about 15 houses in the village of Crookston at the time of this seizure, I should think.

74 WM. H. STEWART was then called as a witness, and, being duly sworn, testified as follows:

I lived in Grand Forks, Dakota Territory, during the winter of 1873-'4.

I had lived at Crookston previously to that, since 1872, and had interests at Crookston during the winter spoken of. I was there that winter frequently—as often as about once a week. I went down from Grand Forks to Crookston with M. V. Nichols when he went to make the seizure. I was frequently in Lariviere's store that winter. It was his business, and I never heard of any one being in company with him in the Crookston business. I went with Nichols the next morning after the seizure to help him inventory the Lariviere stock. I helped him handle the liquors. There were several barrels of it altogether, I should think. There was some Bourbon whiskey. I believe Lariviere usually kept several barrels of liquor in stock. Think I have seen four or five barrels on hand sometimes, and sometimes it would be less. All the stock seized by Nichols was in one building. Lariviere carried on a regular saloon business in the main room of the building. Some of the barrels in which we found the liquor had Lariviere's name on.

75 On his cross-examination the witness testified: I had sold liquors at my hotel in Crookston before the winter of 1873-'4, but was not doing so that winter. I had a saloon that winter, however, at Grand Forks. I paid my special tax for so doing to the revenue officers of the United States. The Hudson Bay Company had a large stock of goods at Grand Forks in the ceded country, and kept liquors on hand there. I don't know whether they paid a special tax as dealers in liquor.

Redirect examination:

I never heard of the Hudson Bay Company selling liquors to Indians from their stock at Grand Forks.

The plaintiff, to further sustain the issues, on its part, called as a witness MA-ZHE-OSH, who, being duly sworn, testifies, through a sworn interpreter, as follows:

I am a Chippewa Indian; live on the Red Lake Reservation; receive annuities from the United States. In the winter that Lariviere's stock was seized I was under the charge of Mr. Pratt, United States Indian agent at Red Lake. I then knew Bernard Lariviere; knew his place of business at Crookston. I did not get any whiskey from him myself
76 that winter. I started with my brother Ga-va-quon to get some from him, but got sick before we got there. Lariviere came to see me when sick. I told him I wanted some whiskey and tea and some other things, and sent my brother along with him to bring them back. I was then near Crookston. Gave my brother an otter skin to pay for the things with. He brought back what I wanted, including a bottle of whiskey. I carried the whiskey to Red Lake and gave it to Mr. Pratt, the agent, and Dr. Allen. I was very sick when I got near Crookston. I intended to have gone for the whiskey myself had I not been taken sick.

On his cross-examination the witness testified:

I was sent for the whiskey. Mr. Pratt told me to get whiskey from Lariviere. He said we should have two hundred dollars if we should get a bottle; I never got the two hundred dollars; I think I ought to have it, for I worked for it; I don't know that I ever asked Pratt for the $200. If the Great Father gets the property taken from Lariviere, I think I

ought to have the $200. Nichols had nothing to do with sending me for the whiskey; I never talked with him about it until after we got the whiskey.

(All testimony, whether of this witness or others, tending to show
77 sales of liquor to Lariviere at Crookston or elsewhere in the ceded territory was taken against the objection that it is irrelevant and immaterial, and subject to the exception of counsel for claimant Lariviere.)

The plaintiff then called as a witness GA-BA-GUON, who, being duly sworn, testified through a sworn interpreter as follows:

I am a Chippewa Indian; I have been during the last five years under the charge of the United States Indian agent at Red Lake, and have been receiving annuities from the United States; knew Bernard Lariviere four and five years ago; I saw him in Crookston the winter that he ran away, but before he went; he ran away at the time his goods were seized. In the early part of the winter I went with my brother Ma-zhe-osh from Red Lake to Crookston to get whiskey from Lariviere's; Ma-zhe-osh got sick before we got there; he then sent me on to get the whiskey, and some other things, from Lariviere; I got a bottle of whiskey from Lariviere, at his store, which we took back with us to Red Lake, and gave to Mr. Pratt, the agent.

Cross-examination:

I went with my brother for the whiskey from Red Lake; the agent told us we should have $200 if we got the whiskey from Lariviere; my brother
78 was really sick before we got to Crookston; I did not tell Lariviere we wanted the whiskey because my brother was sick; my brother had caught cold; he was not sick till after we left Red Lake; Agent Pratt did not tell me to tell Lariviere my brother was sick; I had been told they wanted to get Lariviere into trouble; did not know what would happen to Lariviere; the man who told us to come down here a few days ago said we would be paid for coming; no one connected with the agency told me so.

Redirect examination:

The man who told me, a few days ago, I should be paid for coming down here said I would get five cents a mile.

Dr. C. P. ALLEN was then called as a witness for the plaintiff, and, being duly sworn, testified as follows:

I was living on the Red Lake Reservation, in this State, in the winter of 1873–'4, and *are* there still. Was in the government employ. I had a general knowledge of the fact that the two Indians who have just testified had been asked to buy whiskey from Lariviere and bring it to the agency. Don't know anything about two hundred dollars having been promised them. I was present when they brought the whiskey back. They gave the bottle to the agent, Mr. Pratt. He kept it in this box
79 until he left, a few weeks ago, as I suppose, and then he turned it over to me. I recognize this box as the one in which the whiskey was originally packed. It now contains two bottles. Can't say which *are* it is.

(The two bottles, with contents, are offered and received in evidence without objection.)

Cross-examination:

The distance from the Red Lake Agency to Crookston is about 60 or 70 miles, I believe, and from the border of the reserve Crookston is about 30 miles distant.

WM. L. PERKINS was then called as a witness for the United States, and, being duly sworn, testified as follows:

I live in St. Paul. Am a member of the firm of Peabody, Lyons & Co., wholesale liquor dealers, and was in 1873 & '4. The firm was organized in 1872. Lariviere, the claimant, was a customer of ours. We sold him a bill of liquors in November, 1873. I have in my hand the original entry (in my own writing) of the sale made at the time. (This entry, on page 215 of day-book, was then offered and received in evidence, and marked Exhibit C, and a copy thereof is hereto attached and made a part of this case.) The witness further testified: This letter which I hold in my hand is the order from Lariviere upon the strength of
80 which a part of this bill of goods was sent. The check referred to in the letter was duly received by us and placed to his credit on account of liquors for which he was owing us at the time. There being no countercharge, the check must have been paid.

(The letter referred to by witness was then offered and received in evidence, and marked Exhibit D, and a copy thereof is hereto annexed and made a part of this case.)

MAURICE LYONS, being duly sworn as a witness on behalf of the plaintiff, testified as follows:

I live in St. Paul, and am a member of the firm of Peabody, Lyons & Co., and was in 1873 & 4. I hold in my hands the shipping receipt for the bill of goods we shipped to Bernard Lariviere at Crookston in November, 1873. The body of the receipt is in my own handwriting, and the signature is that of a clerk of the Lake Superior and Mississippi Railroad Company. I recollect the shipment of the goods. I think we had shipped him goods to Crookston before that; he was owing us for liquors before we shipped him this lot.

(The shipping receipt referred to by witness was then offered and received in evidence and marked Exhibit E, and a copy of the same is hereto attached as a part of this case.)

81 F. J. ROTHPLATZ was then called as a witness for plaintiff, and, being duly sworn, testified as follows:

I was in the winter of 1873–'4 station agent of the Northern Pacific Railroad Company at Glyndon, Minnesota, which is the point where the Northern Pacific Railroad is intersected by the St. Vincent Branch of the St. Paul & Pacific Railroad. The St. Vincent Branch was then constructed from Glyndon to Crookston. I went to Glyndon, in latter part of November, 1873, and remained until May, 1874. I recollect the circumstances of a lot of liquors being received at Glyndon, during the winter, directed to Bernard Lariviere at Crookston. I know they must have been shipped from Glyndon, northward toward Crookston, either over the St. Vincent Branch R. R. or by private conveyance, can't say which. Goods were shipped both ways that winter, as the trains only ran occasionally between Glyndon and Crooks-

ton. There were liquors shipped up that way for other parties during the same season.

J. T. SARGENT was then called as a witness for the United States, and, being duly sworn, testified as follows:

In the winter of 1873 & '4, I was conductor of the train which ran on the St. Vincent Branch of the St. Paul and Pacific R. R. from
82 Glyndon to Crookston. We made our first trip about the middle of December, 1873, and then ran about once a week until the middle of January. The railroad company had no office open at Crookston that winter, and kept no books or records there. Whatever goods were taken up, I simply took in charge and collected the freight charges myself. I recollect carrying liquors up to Crookston from Glyndon that winter for Lariviere, but can't say just when or how much.

Don't remember any particulars.

Cross-examination:

I don't recollect carrying liquors over the road for any other parties. Perhaps I might have done so. I don't know of any one else who was selling liquor at Crookston that winter.

The plaintiff then called as a witness ALBERT CHURCH, who, being duly sworn, testified as follows:

I live at Crookston. I know Bernard Lariviere. I was in his employ in the winter of 1873–'4. I was in charge of a trading post he had on the border of the Red Lake Indian reservation. It was on the reservation I was employed by Lariviere, but a man by the name of Grant was interested in the business done at the post I had charge of. Grant was a partner in the business, as I understood. The post was established to trade with the Indians for furs. We
83 never kept liquors at the post where I was, but we kept a general stock of other goods. Lariviere was up at the post on the reservation several times during that winter. I heard him making trades with the Indians while there. I heard him agreeing to give the Indians strong-water in exchange for furs. He was to take the furs at the post, and they were to go to Crookston for the strong-water.

I heard him tell them how much strong-water he would give them for a certain amount of furs, but don't recollect the particular figures now. I heard him make such agreements with them more than once. Once some Indians went back to Crookston, along with Lariviere to get their whiskey under such an arrangement.

On cross-examination the witness testified:

I think Grant was a partner in the trade at my post, but I was employed by Lariviere. We never kept liquors at the post. I never saw Lariviere give any liquor to Indians there, but I have heard him agree there to give it to them at Crookston. I recollect the names of two Indians with whom he made such an agreement. There were also several others, but I don't recollect their names. The time when the In-
84 dians went back along with him to get the whiskey was in December, 1873. He called it strong-water in talking with them. I never had any trouble with Lariviere, except that I told him I would not

work for him if he sold liquor to the Indians, as I was afraid to stay at the post alone among them if they had liquor, as I did not understand their language very well. He said he would send another man to stay with me, which he did. I was afraid to stay among them alone if they had whiskey, and that is the reason I objected. I never gave or traded them whiskey myself. I was at my post when Lariviere's stock at Crookston was seized. The goods I had at the post were not seized. I heard the Crookston stock had been seized, and came down in a few days to Crookston. I saw Nichols there on the street, but did not ask him why he had seized the stock. Did not tell him what I have stated here. Never told any one what I have stated here as a witness. Never talked with Nichols about being a witness in the case. Don't know how the officers of the United States knew that I could be a witness against Lariviere. I may have talked a little about the matter to some persons, but not to any officer of the government, nor to state what I have testified to
85 here to-day. I did tell the district attorney this morning in this room, but he is the only person. Lariviere is not owing me anything. I never had any trouble with him, except as I have stated, and he fixed that up. I never had any trouble with Grant.

FRANK JORDAN, being duly sworn as a witness for plaintiff, testified, through a sworn interpreter, as follows:

I am a Chippewa Indian; live on the Red Lake Reservation, and receive annuities from the United States; I knew Bernard Lariviere 4 or 5 years ago; saw him two or three days before he ran away; I got some whiskey from Lariviere; it was two years before he left, and at Grand Forks——

(Attorneys for claimant object to any evidence relating to the transaction referred to by witness as incompetent, irrelevant, and immaterial, the transaction being too remote in point of time to have any bearing in this case. Objection overruled, and exception noted.)

The witness further said:

I got three gallons of whiskey, and paid Lariviere $8 per gallon for it; Lariviere was just settled at Grand Forks and preparing to open out.

On cross-examination the witness testified:

Have worn white men's clothes all my life; I am a farmer on the reservation; I work my land with plough borrowed from agent. I
86 cleared the land myself, and so it belongs to me; it is on the reservation; I live on my farm at Red Lake; never was a lumberman nor a chopper of wood; when I got the liquor at Grand Forks I was on my way home from Pembina, where I had been to make a visit; I know M. V. Nichols; saw him once about four years ago; never talked with him about this matter; don't know how the United States officers found out what I know about Lariviere; don't know that I am here to help the government; a man came up to Red Lake and said I was wanted at St. Paul; was promised that I would get pay for coming here; don't know who I am to speak for; Allen (deputy marshal) told me I would be paid; I was never in the army; did not often go to Crookston; I earned the $24 I paid for the whiskey for working for it; don't know the names of the men I worked for; they were white men; I worked digging a well and burning brick.

Redirect examination:

The man who said I would be paid for coming here did not say whether my pay would be witness fees, or would come out of Lariviere's property; I supposed it would come out of the property; I thought I ought to get about a thousand dollars; the man did not tell me how much I would be paid.

87 E. C. DAVIS was then called as a witness by plaintiff, and, being duly sworn, testified as follows:

I reside at Crookston in this State; have lived there since June, A. D. 1872; was not in any particular business in winter of 1873–'4; had at that time some contracts which I had in construction of railroad from Glyndon to Crookston; I lived about ten rods from Lariviere's place of business; was in his store frequently; cannot state the average amount of whiskey he kept on hand; he always had liquor on hand—sometimes four or five barrels; the bulk of his trade was with Indians; he told me he came to Crookston mainly for the Indian trade; his place was much frequented by Indians; it was their general trading place; he did the principal Indian trade done in that vicinity; Indians frequently staid over night at his store; have known 6 or 8 to do so at a time; I frequently spent my evenings that winter in the office of our register of deeds, which was next door to Lariviere's store, with but a slight partition between; during such evenings we used frequently to hear sounds in Lariviere's as though they were knocking the bungs out of barrels and pumping something out with a little tin pump he had in use, such as are used by liquor dealers.

88 DELAS JACOBUS was then called as a witness for plaintiff, and, being duly sworn, testified:

I reside at Crookston and have done so since the fall of 1873. I am in the employ of the railroad company as station agent at Crookston; the company kept no office or records at Crookston until May, 1874. During the winter of 1873,–'4, I was around Lariviere's store frequently. He carried a stock of several barrels of liquor most of the time. His general trade was mainly with the Indians. Indians frequently staid in his building over night. I frequently spent my evenings that winter with Davis, in the office of the register of deeds, and often heard the same sounds just described by Mr. Davis, the last witness. During that winter it was not at all uncommon to see drunken Indians in the village. There was another saloon there during the early part of the winter.

On cross-examination the witness testified:

There were two other stores in the village, one a dry goods store and the other a grocery. They traded with Indians some, but it was not their principal trade.

89 Mrs. Lariviere is a white woman and Lariviere is a white man. A man by the name of Rogers kept a hotel, but there were no liquors sold there. The hotel was closed most of the winter. The Hudson's Bay Company kept a large stock of goods at Grand Forks, probably a stock of $25,000. Glyndon is about 65 miles south of Crookston, and Frog Point 8 miles west; there was a store there.

Redirect:

The attorney for plaintiff then asked the witness the following question: "During the winter of 1873 & '4 was it generally reputed in and around Crookston that Lariviere was engaged in selling liquor to Indians?" To which question the attorneys for claimant objected on the ground that the evidence called for is incompetent, irrelevant, and immaterial. The objection was sustained by the court, to which ruling the attorney for plaintiff then and there excepted. Exception noted.

The plaintiff thereupon rested its case.

After opening his case to the jury, the claimant, Bernard Lariviere, to maintain the issues on his part, called as awitness WM. BICKEL, who, being duly sworn, testified as follows:

I am collector of internal revenue for the 2d collection district of Minnesota. As such I have in my possession the records of my predecessors and of the former assessors for this district. The book I hold in
90 my hand is the letter-book of General McLaren, formerly assessor.

Pages 291 and 292 of this book were then offered in evidence. The attorney for plaintiff objected to its reception as incompetent, irrelevant, and immaterial (waiving, however, any objection arising from the fact of its being a copy instead of the original).

The objection was overruled by the court and the exception of plaintiff to such ruling taken and noted. The aforesaid pages of said letter book were thereupon received and read in evidence and marked Exhibit F, and a copy of the same is hereto attached as a part hereof.

The witness then testified that he held in his hand the letter received by the late assessor in reply to the preceding exhibit, and the same was offered in evidence. Objected to by plaintiff as incompetent, irrelevant, and immaterial. Objection overruled by the court, to which plaintiff duly excepted and its exception was noted by the court.

The letter was then received and read in evidence, marked Exhibit G, and a copy of the same is hereto attached as a part hereof.

The witness then testified that he held in his hand the original
91 commission of Samuel H. Nichols, as assistant assessor referred to in the foregoing Exhibit G, and the same was thereupon offered in evidence by counsel for claimant.

(Objected to by plaintiff as incompetent, irrelevant, and immaterial. Objection overruled, to which ruling the plaintiff then and there duly excepted and its exception was noted by the court.)

The commission was thereupon received and read in evidence and a copy of the same is hereto annexed as Exhibit H, and made a part hereof.

The witness then testified that he had in his possession the original assessment lists for this collection district for the year 1872.

The claimant then offered in evidence five certain entries in said list showing assessments made upon different parties in the ceded territory in question as retail liquor dealers.

(To which evidence the plaintiff objected as incompetent, irrelevant, and immaterial. Objection overruled and plaintiff's exception noted.)

The five entries were then received and read in evidence, and copies of the same are hereto annexed as a part hereof, and marked Exhibit I.

The witness then said he had in his possession the official record of special taxes paid in this collection district for the year ending
92 April 30, 1874. Counsel for claimant offered in evidence two certain entries from said record, showing special taxes paid by B. B. Lariviere, the claimant, and by another firm as retail liquor dealers in the ceded country in question.

(Objected to as incompetent, irrelevant, and immaterial. Objection overruled and plaintiff's exception noted.)

The entries were then received and read in evidence, and copies of the same are hereto annexed (and made a part hereof) as Exhibit K.

The witness then produced a blank form of receipt which he testified was such as was in 1872 & 1873 given by the collector to parties who paid special taxes, and the same was offered in evidence by counsel for claimant.

(Objected to by plaintiff as incompetent, irrelevant, and immaterial. Objection overruled, and exception of plaintiff noted by the court.)

The said form of receipt was then received and read in evidence, and a copy of the same is hereto attached as Exhibit L and made a part hereof.

SAMUEL H. NICHOLS was then sworn as a witness for claimant, and testified as follows:

I am the person named in this commission (Exhibit H). Referring to the entries marked Exhibit I, witness was asked whether he had assessed the parties therein referred to as indicated by the entries.
93 (Objected to on same grounds as last preceding evidence, and same ruling made and exception noted.)

The witness answered: I did; I merely assessed; did not collect the taxes. Never received instructions not to assess liquor dealers in this ceded country. I never knew anything about the treaty stipulation involved in this case.

(Subject to objection and exception against the admissibility of the evidence, it was here admitted by the plaintiff that the taxes put in evidence as having been assessed by Nichols were generally paid.)

The claimant then rested his case; and the foregoing is all the evidence adduced on the trial of this cause.

The evidence was then summed up by the attorneys for the respective parties.

The court thereupon charged the jury, and having charged, among other things, that the mere introduction of spirituous liquor into the ceded country raised the presumption that it was introduced for an unlawful purpose was prima facie evidence of the fact, charged them further that the payment of a special tax by Lariviere to the government as a retail liquor dealer at Crookston, and the issuance of the receipt therefor to him in due form by the collector of internal revenue, overcomes any prima
94 facie evidence of an intent to violate the law, and the government is required to prove that the introduction was for an unlawful purpose by additional testimony; to which charge the attorney for the plaintiff then and there duly excepted, and his exception was noted and allowed by the court.

The court, at the request of attorneys for claimant Lariviere, further charged the jury that the mere introduction by Lariviere of liquors into

this territory will not, in view of the evidence offered by the defense, warrant a verdict for the government; that it must also appear that he introduced the liquors for the purpose of selling them to the Indians. To which charge the plaintiff then and there excepted, and its exception was allowed by the court. The court further charged the jury at the request of said claimant's attorneys that "the uncontroverted facts proved for the defense, were a license to Lariviere, to take the liquor to Crookston, and gave him the right to do so; that for so doing he is subject to no penalties under the national law." To which charge the plaintiff then and there duly excepted, and its exception was noted and allowed by the court.

The jury thereupon retired, and afterwards returned a verdict
95 against the plaintiff and in favor of the claimant, Bernard Lariviere.

And because none of the foregoing matters appear of record in this cause, this bill of exceptions is during the said term, and on this twenty-eighth day of October, A. D. 1878, duly settled, signed, and allowed.

R. R. NELSON, *Judge*. [SEAL.]

EXHIBIT A.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., Aug. 9th, 1873.

SIR: By request of the Department of Justice made to the Dep't of the Interior, under date of the 7th instant, I transmit herewith a commission from the former, appointing you to be special detective "for the purpose of investigating violations of the Indian intercourse laws in Minnesota" acting under instructions of this office and the U. S. agent for the Chippewa Indians in Minnesota.

The special service required of you has reference to measures necessary to be taken for effecting, if practicable, the entire suppression of the
96 traffic in spirituous liquors among Indians in Dakota and Minnesota, and it is designed that your proceedings shall have for their result the prosecution of all persons found violating the laws in this respect. Your duty will be to find out who such persons are, to procure their names, to obtain proof of the act of violation or witnesses thereto, and to communicate the facts to the U. S. district attorney or marshal, that the offenders may be duly indicted and tried in the proper court. The nefarious traffic, this office is informed, is freely carried on with Indians at Crookston, the town at the crossing of Red Lake River, about seventy-five or a hundred miles southeast of Pembina, and that large quantities of liquors are carried to the Chippewa agency at the White Earth Reservation, Minnesota. You will confer with Ebenezer Douglass, esq., U. S. agent for the Chippewas at White Earth, who will be advised of your appointment, and directed to co-operate with you in regard to this special duty so far as he may be able. Your proceedings will not be limited to the points named above, but embrace all of that country in Dakota and Minnesota ceded to the United States by the treaty made with the Red Lake and Pembina bands of Chippewa Indians, October 2d, 1863, in which country it is stipulated, by the 7th article thereof, that the laws of
97 the United States, prohibiting the introduction and sale of spiritu-

ous liquors in the Indian country, shall be in full force and effect. For your information and guidance I enclose herewith a copy of that treaty, also a copy of the law of June 30th, 1834, regulating trade and intercourse with Indian tribes, and of subsequent acts amendatory of the 20th section thereof relating especially to the introduction of spirituous liquors into the Indian country, also a copy of a decision of the U. S. Supreme Court, December term, 1865, in certain cases arising out of indictments under one of these amendatory acts.

You will please report progress in the discharge of this duty from time to time for the information of this office, and for such further instructions as may be deemed necessary and proper.

Very respectfully, your ob't serv't,

H. R. CLUM,
Acting Commissioner.

M. V. NICHOLS, Esq.,
Oak Lake, Minn.

EXHIBIT B.

OFFICE OF THE U. S. INDIAN AGENT,
Red Lake, Minn., Feb. 9, 1874.

To M. V. NICHOLS, *Special U. S. Detective:*

98 Having been informed and have reason to suspect that spirituous liquors have been introduced and are kept for sale, or to give away, *contra* to the laws of the United States, at or near Crookston, in the State of Minnesota, within the territory ceded to the United States by treaty concluded at the old crossing of the Red Lake River, Oct. 2, 1864, between Alexander Ramsey and Ashley C. Morrill, commissioners on the part of the United States, and the Red Lake and Pembina bands of Chippewa Indians; and whereas art. 7 of said treaty declares that "the laws of the United States now in force or that may hereafter be enacted, prohibiting the introduction and sale of spirituous liquors in the Indian country, shall be of full force and effect throughout the country hereby ceded until otherwise directed by Congress or the President of the United States;" and whereas said art. 7 is now in full force and effect:

You are hereby directed to search the boats, stores, packages, wag*g*ons, sleds, and places of deposit of the following-named persons—B. B. Lariviere—and such other places of deposit as you may have reason to suspect such liquor to be kept or sold at or near the said place of Crookston, and if any such liquor is found therein to seize the same,

99 together with the boats, teams, wag*g*ons, and sleds used in conveying the same, and also the goods, packages, and peltries of such persons, and deliver the same to the proper officer, and proceed against such persons by libel in the proper court according to the laws of the United States made and provided in such cases.

Yours, &c.,

R. M. PRATT,
U. S. Special Ind. Ag't.

I heartily approve of the above.

E. DOUGLASS,
U. S. Ind. Ag't, White Earth.

EXHIBIT C.

ST. PAUL, *Nov.* 29, 1873—Continued.

(B) B. B. LARIVIERE, *Crookston:*

To 1 bbl. Lee Bourbon, 40, 2.20	88	
" 1 " Paris do. 43, 1.75	75	25
" 1 " Calumet do. 46², 1.25	58	13
" 1 " Cin. whiskey, 46, 1.00	46	00
5 galls. gin, 2.50	12	50
5 " Jamaica rum, 2.50	12	50
5 " brandy, 2.50	12	50
10 " alcohol, 2.10	21	00
1 keg, 1.50	1	50
3 do. 1.25	3	75
	331	13

100 EXHIBIT D.

CROOKSTON, *Nov.* 4, 1873.

Mess. PEABODY & LYONS, *St. Paul:*

SIR: I write you few line' because i did not see Mr. George, your agent. i send you one check of $150. please to place that to my credit; and i like to have some liquors: 1 bar'l Lee bourbon; 1 bar'l off., 1$ 75 cts. galls.; 1 bar'l 1$ 25 cts.; 1 bar'l of the common you have. I will send you some money very soon, because i will need some more liquors soon. i don't ask all what I want, because the money his very scars here, but if you will send me the same liquors you did before, I ask you that much because the car running here now.

I am,

B. B. LARIVIERE.

EXHIBIT E.

Lake Superior and Mississippi Railroad received from Peabody, Lyons & Co. the following packages in good order or condition, noted to be forwarded and delivered to consignee as per margin on payment of freight:

ST. PAUL, Nov. 29, 1873.

Marks.	Articles.	Weight.
B. B. Lariviere, Crookston, Minn., via Glyndon.	4 bbl. whiskey or L.	1,500
	4 kegs liquors or L.	250
		1,720

McCAULEY.

101 EXHIBIT F.

DEC. 8, '9.

C. DELANO:

I have the honor to represent that it would be to the interest of the department, and a great convenience to tax-payers living in the northern and westerly portion of this collection district to establish a new division, No. 12, out of a portion of division (7) seven. I would recommend division 12 to be made up with the following counties: Douglass, Otter Tail, Pope, Becker, Polk, Stevens, Pembina, Clay, Andy Johnson, and Traverse. Last spring the government established a land-office at Alexandria, Douglass Co., making this a centre for all that upper country. A large immigration has gone into that portion of this State. The Saint Paul & Pacific Railroad expects early next summer to reach Red River. New and important towns are springing up all along that line. Breweries and manufactories are preparing to go into operation early in the spring. John Cooper, A. A., lives at St. Cloud, one hundred miles from Alexandria, and cannot carefully watch this growing border. Should this recommendation meet your approval, and the new division be created, I would recommend as
102 assistant assessor Samuel H. Nichols, of Alexandria, Douglass Co., who in my opinion would greatly add to the revenue from that portion of the State.

I am, sir, very respectfully, your ob't servant,

R. N. McLAREN,
Assessor 2d Dist. Minnesota.

EXHIBIT G. W. E. A.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, December 14, 1869.

SIR: Your letter of the 8th inst., proposing the establishment of a new subdivision of your district, composed of ten counties from the present 7th division, to be numbered "twelve" is received, and the same is approved. A commission for Mr. Nichols of the new 12th division will be issued without delay.

Very respectfully,

C. DELANO, *Commissioner.*

R. N. McLAREN, Esq.,
Assr. 2d Dist., St. Paul, Minn.

EXHIBIT H.

This exhibit, which is now missing, was a commission from the Secretary of the Treasury, W. A. Richardson, and countersigned by C. Delano, Commissioner of Internal Revenue, appointing Samuel H. Nichols
103 to be assistant assessor of the new twelfth division referred to in the preceding exhibit.

It was in the following form:

TREASURY DEPARTMENT,
Washington, 186 .

These presents witness that is appointed an assistant assessor for division No. of the collective district of the State of , and that he is hereby authorized to execute and perform all the duties of said office during the pleasure of the Secretary of the Treasury, from and after taking the oath of office, and that he is entitled to take and receive all the fees and emoluments thereto belonging.

Secretary of the Treasury.

Countersigned:

Commissioner.

104 EXHIBIT I.

Alphabetical list of persons in division No. 6 of collection district No. 2, of the State of Minnesota, liable to a tax under the excise laws of the United States, and the amount thereof as assessed by S. H. Nichols, assistant assessor, and by assessor returned to the collector of said district for the month of July, 1872.

Name.	Location and & P. O. address.	Article or occupation.	No. in abstract.	Quantity or valuation.	Rate of tax.	Amount of tax on article.	Total.
Line 24—Stewart & Morrison.	Red Lake River crossing, Polk Co.	Ret. liq.....	7	July..	25	20 83	25 83
Line 29—Shepard, Henry.	Crossing Pembina Br'ch R. R., Polk Co.	Ret. liq.....	7	Aug..	25	18 75	18 75
Line 38—Woodruff, N. G.	Snake River, Pembina Co.	Ret. liq.....	7	July..	25	20 83	25 00

The following entry is from the similar list for August, 1872:

Line 18—McLean, L. W..	Snake River, Polk Co....	Ret. liq.....	.....	Aug..	.....	18 75	22 50

The following entry is from the similar list for October, 1872:

Line 6—Jerome, Frank..	Red Lake crossing, Polk Co.	Ret. liq.....	.....	Oct....	25	14 58	.....

105 EXHIBIT K.

Record of special taxes, district of Minnesota, from May 1, 1873, *to April* 30, 1874.

Name.	Business.	Place.	Date of payment.	Am't of tax.	From what time.	To April 30, 1874.	Remarks.
Barb & Wenzel.....	Ret. liq.....	Crookston, Polk Co.	July 6...	25 00	May	"	
Lariviere, B. B.....	Ret. liq.....	Crookston, Polk Co.	July 21..	25 69	May	"	

106 EXHIBIT L.

1.80 5

$30.] UNITED STATES INTERNAL REVENUE. [No. 154.

Receipt for special tax.

Received of dollars, for the special tax upon the business or occupation of , to be be carried on at , of , county of , and State of , for the year ending May 1, 18 .

Dated at , 186 .

Collector of the District, State of .

The foregoing are the exhibits referred to in and made a part of the bill of exceptions.

R. R. NELSON, *Judge.*

The following is the full charge of the court as delivered in this case.

R. R. NELSON, *Judge.*

Aside from the pecuniary amount involved, this case is one of interest. I think, from a hurried examination of reported cases, this is the first attempt on the part of the government to obtain a forfeiture under the 20th section of the act regulating trade and intercourse with the Indian
107 tribes. The criminal records of this court will show that persons are indicted and tried every term for violating the law in respect of the sale of liquors to Indians, but, so far as I am advised, there is no case in which a forfeiture of the goods and merchandise has been claimed by the government.

It is unnecessary to say anything about the policy of this law. We all recognize the fact that considerations of humanity influenced Congress. It was passed for the protection of the people upon the frontier and to prohibit the vending and distribution of liquor among the Indians, as it was well known the traffic was disastrous to them, and endangered the lives of white people residing in their neighborhood. Until 1864 it was not in violation of any law of the U. S. to sell or give spirituous liquors to *to* an Indian outside of an Indian reservation or outside of the Indian country, but in that year the act of Congress was amended radically, and this amendment was drafted by the United States district attorney of this district. It was found that in the vicinity of the Winnebago Reservation, near Mankato, in this State, whiskey dealers had collected and were furnishing whiskey to the Indians.

They escaped conviction on account of the difficulty in obtaining
108 proof that the sale was made upon the reservation, and the present law was the result of his efforts, which forbids the sale of liquor to an Indian anywhere within the limits of the United States, provided the Indian was in charge of an agent or superintendent, and the constitutionality of this law was upheld by the Supreme Court of the United States. Until May 5, 1864, the country into which it is charged this whiskey was

introduced remained Indian country, and the trade and intercourse law was in force. At that time a treaty was entered into between the United States Government and the Red Lake and Pembina bands of Chippewa Indians, in which was engrafted this stipulation: "The laws of the United States now in force, or that may hereafter be enacted, prohibiting the introduction and sale of spirituous liquors in the Indian country, shall be in full force and effect throughout the country hereby ceded until otherwise directed by Congress or the President of the United States."

By the terms of this stipulation, the 20th section of the laws of 1864 was extended over the ceded territory, or rather the act of Congress was declared to be still in force notwithstanding the cession.

In 1874, it is alleged—1872 by mistake in information—one
109 Bernard Lariviere, a white person, introduced into the territory ceded, at Crookston, a quantity of whiskey and other spirituous liquors unlawfully.

(Exception to the above by counsel for claimant.)

That is the charge in the first count of the information, and by that act it is claimed not only the liquors found and seized, but also all merchandise and furs found in connection with the whiskey, were forfeited to the government.

There is a second count charging these liquors were introduced with intent to sell, and dispose of, and distribute among the bands of Red Lake and Pembina Indians, and under that count also a forfeiture is claimed.

When this case first came before the court, a demurrer was filed by Lariviere, the claimant, to the information; that is, he admitted "I introduced these spirituous liquors for the purpose set forth in the information, but the United States court has no jurisdiction, for the reason that the village of Crookston is within the limits of the State of Minnesota, outside of an Indian reservation, and the State of Minnesota has jurisdiction of
110 the subject of the introduction of spirituous liquors. If I am to be punished or my property forfeited, it must be for violating some State law."

The demurrer was decided by this court in favor of the claimant and the proceedings dismissed. An appeal was taken to the circuit court, and was heard by the Supreme Court justice.

He regarded the question presented important, and pro forma sustained the ruling of this court, in order that the government might obtain a decision of the Supreme Court of the United States, which it did, and the decisions of both courts below were reversed, and the case sent back for trial on the merits. As I understand the opinion, the court only decided the general proposition that the treaty stipulation was the law of the land; that it had the same force and effect as an act of Congress, and that the unlicensed introduction of spirituous liquors into the ceded territory was prohibited. (Exception to the above by claimant's counsel.)

It is urged on the part of counsel for claimant that the internal
111 revenue law of 1868 abrogated the treaty stipulation. I am not prepared to go to that extent, gentlemen. (Exception to the above by claimant's counsel.) I think the stipulation is still in force, and that the mere introduction of spirituous liquors raised the presumption that it was introduced for an unlawful purpose, is prima facie evidence of the fact. (Exception to the above by claimant's counsel.)

The burden of proof is thus thrown upon the claimant to show its introduction was not unlawful. (Exception to the above by claimant's counsel.) In that view of the case, the claimant has offered a receipt given by the internal revenue collector of the district embracing this territory for payment of special tax as a retail liquor dealer. (Exception to the above by claimant's counsel.) This receipt overcomes any prima facie evidence of an intent to violate the law, and the government is required to prove the introduction was for an unlawful purpose by additional testimony.

This partially disposes of the first count, as the government rely upon proof of the introduction as sufficient evidence to sustain it.

112 The next count, as I said, charges the liquor was introduced with the intent to sell, dispose of, and distribute among these Indians. This must engage your attention, and the government must satisfy you by competent testimony that the charge is true.

Proof has been offered of previous traffic by claimant with the Indians in spirituous liquors, also evidence of two Indians in regard to the purchase of whiskey at Crookston and the evidence of the employee Church.

All this evidence and the circumstances attending the transactions testified to are proper to be considered by you, and if you should determine Lariviere introduced the liquor for this unlawful traffic the forfeiture claimed must follow. The guilty merchandise forfeits all the other property, including the furs and other property. In the language of the law: "The goods, packages, and peltries" (exception to the above by claimant's counsel). It is immaterial for you to consider how the government obtained knowledge of this alleged illegal traffic. It is necessary

113 to employ detectives, and such employment is not objectionable to expose crime.

The counsel for the claimant has sent up several requests, all except the two following I refuse to give you:

1. "The mere introduction by Lariviere of liquors into this Territory will not warrant a verdict for the government. It must also appear that he introduced the liquors with the intent to sell to Indians."

2. "Congress possesses constitutional power to regulate trade or intercourse in all matters concerning Indians.

"The uncontroverted facts proved for the defence were a license to Lariviere to take the liquor to Crookston and gave him the right to do so.

"For doing so he is subject to no penalties under the national law."

The district attorney sends the following, which I give you:

"If the jury should believe that the liquors described in the information were found in Lariviere's possession, the presumption in the absence of rebutting evidence or circumstances is that he must have introduced them."

114 And "if the liquors described in the information were taken or shipped to Crookston by Lariviere's order, request, or procurement, they were, in the view of the law, so taken or shipped by himself." (Exception to above by claimant's counsel.)

Mr. DAVIS. I ask the court to make another charge: "If the fact is that Lariviere took the liquors to Crookston, the mere fact of his taking them there is no presumption of his intent to sell them to Indians."

Judge NELSON. I decline. The mere introduction is prima facie evidence that he had them there for the purpose of trade and he must show——

Mr. DAVIS. I mean your honor, the trade to Indians——

Judge NELSON. I say—the presumption is raised by proof of introduction that he had them in Crookston for an illegal purpose.

115 This case has been thoroughly presented. It resolves itself into questions of fact for you to determine under the instructions I have given you.

You can take the case.

(Indorsed:) U. S. district court, dist. of Minn. The United States vs. 43 Gallons of Whiskey, 33 Fox Pelts & other property. Bernard Lariviere & Charles Grant, claimants. Bill of exceptions. Filed Oct. 28, 1878. Wm. A. Spencer, Clerk.

116 (Indorsed:) United States district court, district of Minnesota. The United States vs. 43 Gallons of Whiskey and other property. Bernard Laraviere claimant. Writ of error and return. Filed Dec. 6, 1878. H. E. Mann, clerk.

United States circuit court for the district of Minnesota.

Term minutes, June term, A. D. 1878, *November* 21, 1878.

THE UNITED STATES OF AMERICA
vs.
FORTY-THREE GALLONS OF WHISKEY, 34 FOX Pelts and other property. Bernard Lariviere & Clovis Guerin, claimants.

On motion of William W. Billson, esq., United States district attorney, ordered that a writ of error issue out of this court returnable at the December term thereof, A. D., 1878, in this cause, in the usual form.

117 United States circuit court for the district of Minnesota.

Term minutes, December term, A. D. 1878, *December* 18, 1878.

THE UNITED STATES, PL'FF IN ERROR,
vs.
43 GALLONS OF WHISKEY, 34 FOX PELTS, AND other property. Bernard Lariviere and Clovis Guerin, claimants, def'ts in error.

This cause came on for hearing before the Hon. John F. Dillon, circuit judge, and was argued by C. K. Davis, esq., for the defendant in error, and by Wm. W. Billson, esq., for the plaintiff in error, and submitted and taken under advisement.

118 United States circuit court for the district of Minnesota.

Term minutes, December term, A. D. 1878, Dec. 19, 1878.

THE UNITED STATES, PL'FF IN ERROR,
vs.
43 GALLONS OF WHISKEY, 34 FOX PELTS AND other property. Bernard Lariviere and Clovis Guerin, claimants, def'ts in error.

This cause, which was removed to this court from the United States district court by writ of error sued out by The United States, plaintiff in error, having been heretofore argued and submitted to the court, the Hon. John F. Dillon, circuit judge, sitting alone, and the court having taken the same under advisement:

Now, the court being fully advised in the premises, it is by the court considered, ordered, and adjudged that the judgment of the district court herein be and the same is hereby in all respects affirmed.

119 The United States circuit court, district of Minnesota.

THE UNITED STATES,
vs.
BERNARD LARIVIERE & CLOVIS GUERIN, def'ts in error, & claimant' of 43 Gallons of Whiskey, &c. } Dec. term, 1878.

Afterwards, to wit, on the second Monday in December, A. D.
120 1878, in this same term before the judges of the said court in St. Paul in said district comes the said United States by Wm. W. Billson, their attorney, and say that in the record and proceedings aforesaid there is manifest error in this, to wit:

1st. In the rulings of the district court (duly excepted to by the said United States) admitting the testimony offered by said claimants on the trial of said cause which was duly objected to by the United States.

2nd. In those parts of the charge to the jury which are particularly set forth in the bill of exceptions herein, and to which, as appears by said bill of exceptions, the United States duly excepted.

And said United States prays that the judgment aforesaid may be reversed, and that it may be restored to all things which it hath lost by occasion of said judgment.

WM. W. BILLSON, *U. S. Att'y.*

(Indorsed:) United States circuit court, dist. of Minnesota. The United States vs. Bernard Lariviere et al., d'f'ts in error & claimants of 43 galls. of whiskey, &c. Assignment of errors. Filed Oct. 28, 1878. Wm. A. Spencer, clerk. Wm. W. Billson, U. S. att'y.

121 H. E. MANN, Esq., *Clerk U. S. Circuit Court:*

SIR: You are hereby requested to issue a writ of error from the Supreme Court of the United States to the judges of the circuit court for the district of Minnesota for the removal of the case of the United States vs.

43 Gallons of Whiskey, 33 Fox Pelts, & other property, Bernard Lariviere & Clovis Guerin, claimants & def'ts in error.

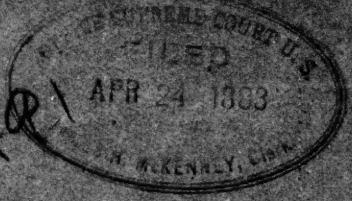
Dated May 26, 1880.

WM. W. BILLSON, *U. S. Att'y.*

(Indorsed:) U. S. circuit court, dist. of Minn. The United States vs. 43 Gallons of Whiskey, &c., Bernard Lariviere et al., claimants, &c. Præcipe for writ of error. Filed May 26, 1880. H. E. Mann, clerk.

(Indorsement on cover:) No. 272. The United States, plaintiff in error, vs. Forty-three Gallons of Whiskey, Thirty-three Fox Pelts, & other property, Bernard Larivierre & Clovis Guerin, claimants. Minnesota. C. C. U. S. Filed 22nd September, 1880.

○



104-401

In the Supreme Court of the United States.

OCTOBER TERM, 1882.

THE UNITED STATES, PLAINTIFF IN error,
vs.
FORTY-THREE GALLONS OF WHISKY, &c., &c.
} No. 272.

BRIEF FOR THE UNITED STATES.

12100

43 Gallons of Whiskey, 33 Fox Pelts, & other property, Bernard Lariviere & Clovis Guerin, claimants & def'ts in error.

Dated May 26, 1880.

WM. W. BILLSON, *U. S. Atty.*

(Indorsed:) U. S. circuit court, dist. of Minn. The United States vs. 43 Gallons of Whiskey, &c., Bernard Lariviere et al., claimants, &c. Praecipe for writ of error. Filed May 26, 1880. H. E. Mann, clerk.

(Indorsement on cover:) No. 272. The United States, plaintiff in error, vs. Forty-three Gallons of Whiskey, Thirty-three Fox Pelts, & other property, Bernard Larivierre & Clovis Guerin, claimants. Minnesota. C. C. U. S. Filed 22nd September, 1880.

108-402

In the Supreme Court of the United States.

OCTOBER TERM, 1882.

THE UNITED STATES, PLAINTIFF IN error,
vs.
FORTY-THREE GALLONS OF WHISKY, &c., &c.
} No. 272.

BRIEF FOR THE UNITED STATES.

12106

In the Supreme Court of the United States.

OCTOBER TERM, 1882.

THE UNITED STATES, PLAINTIFF IN error,
vs.
FORTY-THREE GALLONS OF WHISKY, &c., &c.
No. 272.

BRIEF FOR THE UNITED STATES.

This case comes up for the second time on a writ of error to the circuit court of the United States for the district of Minnesota, and is a libel of information filed in the United States district court of said district to enforce the forfeiture of certain spirituous liquors and other merchandise found with the liquors at the time of seizure, the property of one Bernard Lariviere.

The grounds on which the information proceeds are substantially that Lariviere, residing and doing business in the village of Crookston, in Polk County, Minnesota, brought the liquors in question into the said county, the

same being a part of the country ceded to the United States by the Red Lake and Pembina bands of Chippewa Indians by the treaty of the 5th May, 1864 (13 Stats., 668), and that the introduction of said liquors was a violation of the act of 30th June 1834 (4 Stats., 732), entitled "An act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontiers," as the same is amended by the act of the 15th March, 1864 (13 Stats., 29), which legislation the said treaty provides shall continue in force throughout the country ceded, *non obstante* the cession, until otherwise directed by Congress or the President (R., p. 6).

The information in another count charges that the liquors were introduced with the intent on the part of Lariviere to sell and distribute the same among the Chippewa Indians, then and there in charge of Indian agents, averring that the said ceded territory is wild, uncultivated, and mainly inhabited by the said Indians (R., p. 7).

Lariviere and one Clovis Guerin intervened as claimants, and respectively answered the information.

Lariviere in his answer (R., pp. 24–26), which, by the way, is full of repugnancies, denies that he ever introduced the liquor as charged, and claims the property seized, *except the liquors*, as his, and as to the liquors disclaims ownership. He denies that the Indian agent who made the seizure was in commission, or had reason to suspect that claimant introduced the liquors, or that they were found stored with the other merchandise.

Although denying the introduction of the liquors, he avers that the acts charged were done under authority of the War Department.

He avers that said spirituous liquors were not introduced for the purpose of sale or in violation of any law or treaty.

Lariviere amended his answer (R., pp. 26, 28), taking the ground that the territory ceded as aforesaid lay within the limits of a collection district under the United States internal-revenue laws, that persons within the ceded Territory engaged in the business of selling spirituous liquors have been assessed and required to pay taxes upon their business, and that among them the claimant and many others have been and are licensed as retail dealers in liquor, and consequently that they are duly licensed to carry on said traffic, and that his license has never been revoked or the tax paid for the same returned.

The other claimant, Clovis Guerin, avers in his answer (R., pp. 28, 29) that the property seized, except the liquors, had been transferred to him, as collateral security for a debt of $2,075.06, with interest from the 31st March, 1874, and denies every traversable allegation in the information, saving the one that Pratt, the Indian agent, made the seizure.

In consequence of the reversal of the judgment by this court the case was tried again at the October term, 1878, of the district court, *coram*, Nelson, *J.*

Evidence was introduced by the Government (R., pp. 32–40) tending to show that Crookston, in Polk County, lay within the territory ceded as aforesaid; that Lariviere introduced the liquors mentioned with the intention of selling them to Indians under the charge of United States Indian agents; and tending to show the circumstances of

the seizure as the same are averred in the libel of information; and then the plaintiff rested.

The claimant, Lariviere, then gave evidence (R. pp. 40, 47) of all the circumstances touching the assessment and collection of the United States internal-revenue tax from the claimant and others, as sellers of liquor by retail, and rested; to the admission of all which evidence the counsel for the Government duly excepted (R. pp. 40, 41.)

Thereupon the court charged the jury as follows (R., p. 41 and pp. 47–50):

That while the mere introduction of spirituous liquors into the ceded territory was evidence *prima facie* of an unlawful purpose, this evidence is neutralized by proof that the claimant held at the time a receipt of the collector of internal revenue for the special tax required to be paid by a retail liquor dealer, and hence that the burden of proof is shifted on the Government to show that the liquors were introduced with the intent to sell them to the Indians.

The court also charged that "the uncontroverted facts found for the defense were a license to Lariviere to take the liquor to Crookston, *and gave him the right to do so;* that for so doing he is subject to no penalty under the national law."

To these rulings the counsel for the Government excepted.

In the course of the trial the counsel for the Government asked a witness if it was not generally reported in and around Crookston that Lariviere was engaged in selling liquor to Indians, and the question being objected to the objection was sustained; to which ruling the counsel for the Government excepted. (R., p. 40.)

There was a verdict for the claimant, Lariviere, and judgment accordingly, that the libel be dismissed. (R., pp. 31, 32.)

The case was then taken to the circuit court by writ of error, and there the judgment of the district court was affirmed. (R., p. 51.)

ARGUMENT.

The question in the case is whether the provision of the internal-revenue law requiring retail liquor dealers to pay a certain tax, and the collection of that tax by the proper officer from the claimant, Lariviere, as a retail liquor dealer in Crookston, a place within the ceded territory, authorized him to introduce the liquors in question into that place, notwithstanding the seventh article of the treaty between the United States and the Red Lake and Pembina band of Chippewa Indians, which is in these words:

"The laws of the United States now in force, or that may hereafter be enacted, prohibiting the introduction and sale of spirituous liquors in the Indian country, shall be in full force and effect throughout the country hereby ceded, until otherwise directed by Congress or the President of the United States." (13 Stats., 668.)

At the time this treaty went into operation the legislation on the subject of the introduction and sale of spirituous liquors was contained in the twentieth section of the act of the 30th June, 1834 (4 Stats., 732), as amended by the act of the 15th March, 1864 (13 Stats., 29), which is as follows:

"*Be it enacted, &c.*, That the twentieth section of the 'act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers,' approved June 30, 1834, be, and the same is hereby, amended, so as to read as follows, to wit:

"SEC. 20. *And be it further enacted*, That if any person shall sell, exchange, barter, or dispose of any spirituous liquors or wine to any Indian under the charge of any Indian superintendent or Indian agent appointed by the United States, or shall introduce or attempt to introduce any spirituous liquor or wine into the Indian country, such person, on conviction thereof before the proper district or circuit court of the United States, shall be imprisoned for a period not exceeding two years, and shall be fined not more than $300: *Provided, however*, That it shall be a sufficient defense to any charge of introducing or attempting to introduce liquor into the Indian country if it be proved to be done by order of the War Department, or any officer duly authorized thereunto by the War Department. And if any superintendent of Indian affairs, Indian agent, or subagent, or commanding officer of a military post has reason to suspect, or is informed that any white person or Indian is about to introduce or has introduced any spirituous liquor or wine into the Indian country, in violation of the provisions of this section, it shall be lawful for such superintendent, subagent, or commanding officer to cause the boats, stores, packages, wagons, sleds, and other places of deposit of such person to be searched; and if any such liquor is found therein, the same, together with the boats, teams, wagons, and sleds used in conveying the same, and also the goods,

packages, and peltries of such person, shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one half to the informer and the other half to the use of the United States; and if such person be a trader, his license shall be revoked and his bonds put in suit. And it shall, moreover, be the duty for any person in the service of the United States, or for any Indian, to take and destroy any ardent spirits or wine found in the Indian country, except such as may be introduced therein by the War Department. And in all cases arising under this act Indians shall be competent witnesses."

When this case was here on the first writ of error the point relied on by the claimant was that it was an unwarrantable violation of the sovereignty and autonomy of the State of Minnesota to enforce within her confines the said article of the treaty and the legislation of Congress referred to in it. But this court took the contrary view, holding that the treaty and the act of Congress were in full force within the ceded territory (*vide* U. S. v. 43 Gallons of Whisky, &c., 93 U. S., p. 188).

When the case went down for another trial the claimant justified under the internal-revenue law.

One ground taken is that by making the ceded territory a collection district, and exacting a tax for selling liquor, "the Government abrogated the treaty," and is estopped to lay claim to a forfeiture under it. This point seems to proceed on the idea that the Executive, in administering the revenue law, had the power to abrogate the treaty, which is not maintainable, and requires no refutation.

Another ground is that there can be no forfeiture when there is full compliance with the terms of the revenue law. In support of this point the license-tax cases (5 Wall., 462) are cited. But those cases decided that such compliance only gave protection against the penalties of the revenue law itself, and none against those of a State law. This court, before Congress so declared, had been careful to lay down that it was not the intention of Congress in granting licenses to legalize any trade or pursuit not sanctioned by the law of a State. (McGuire *vs.* Comm., 3 Wall. 387; The License Tax Cases, 5 Wall., 462.) And we submit that this same principle of interpretation is to be used here with reference to the liquor traffic in the ceded territory.

The case of the Cherokee tobacco (11 Wall., 616) is cited on the other side, but it seems to have been entirely overlooked that that case turned on the point that the language of the statute *required* that the revenue law should be applied to Indian Territory, which could not be excluded *without doing violence to the statute.* But for the meaning being plain this court, it is presumed, would not have held that the act of Congress had abrogated the exemption from taxation granted by the Cherokee treaty.

It is to be observed that the first internal-revenue law of 1st July, 1862 (12 Stats., p. 432), was enacted *before* the ratification of the treaty ceding the territory in question. It cannot be contended that this law legalized the introduction of spirituous liquors into Indian Territory, nor does it appear on what theory the subsequent legislation, *in pari materia*, is supposed to have had such an effect, although the treaty stipulation provided that existing legis-

lation prohibiting the introduction and sale of spirituous liquors into the Indian country should continue to be operative in the territory ceded, a stipulation which this court has decided was entirely valid.

Undoubtedly Congress had the power to override this treaty stipulation, but the language used for that purpose must be too plain for doubt, as in the Cherokee tobacco case, before this court will impute to Congress the intention to break down one of the barriers which the Executive and the Indians have erected to protect the latter from the horrible evils which always attend upon their use of spirituous liquors.

If the introduction of such liquors is allowable under a license, the failure in this case to secure a conviction on the evidence under the count charging the introduction of liquors *with intent to sell them to Indians* shows very plainly that the Government can never enforce forfeitures in such cases, and, consequently, that the liquor traffic with the Indians can be carried on with impunity. We submit that to give such an effect to the revenue laws there must be something in them wholly inconsistent with the terms of the treaty, which we contend there is not.

But if the view of the court below, that the license under the revenue law makes the introduction of liquor into the ceded territory lawful in some circumstances, it must needs make its introduction lawful *under all circumstances*, for the statute makes unlawful *the introduction* of liquor, without more, and it makes no reference to any such offense as the introduction of liquor with intent to sell to Indians, which seems entirely a creation of the

courts below; consequently there would seem to be no middle ground between absolute exclusion and absolute license to introduce without adding to the statute.

It is submitted that the judgment ought to be reversed.

WM. A. MAURY,
Assistant Attorney-General.

108-491
MAR 19 1883
JAMES H. McKENNEY

SUPREME COURT OF THE UNITED STATES.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

FORTY-THREE GALLONS OF WHISKY, ETC., AND BERNARD LARIVIERE ET AL., DEFENDANTS IN ERROR.

BRIEF FOR DEFENDANTS IN ERROR.

C. K. DAVIS,
Counsel for Defendants in Error.

WEST PUBLISHING CO.'S JOB PRINT. 313 WABASHA ST., SAINT PAUL, MINN.

courts below; consequently there would seem to be no middle ground between absolute exclusion and absolute license to introduce without adding to the statute.

It is submitted that the judgment ought to be reversed.

WM. A. MAURY,
Assistant Attorney-General.

108-491

MAR 19 1883

SUPREME COURT OF THE UNITED STATES.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

FORTY-THREE GALLONS OF WHISKY, ETC., AND BERNARD LARIVIERE ET AL., DEFENDANTS IN ERROR.

BRIEF FOR DEFENDANTS IN ERROR.

C. K. DAVIS,
Counsel for Defendants in Error.

WEST PUBLISHING CO.'S JOB PRINT, 313 WABASHA ST., SAINT PAUL, MINN.

SUPREME COURT OF THE UNITED STATES.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

FORTY-THREE GALLONS OF WHISKY, ETC., AND BERNARD LARIVIERE ET AL., DEFENDANTS IN ERROR.

STATEMENT.

The information charges that the goods in question were seized March 10, 1874, at the village of Crookston, county of Polk, state of Minnesota, as forfeited under the treaty of October 3, 1863, between the United States and the Chippewa Indians, (13 Stat. 668.) (P. 6, fol. 11.) They were the stock in trade of the claimant Lariviere, who was then a merchant at Crookston, (p. 32, fol. 70; p. 34, fol. 74.) The inventory shows (p. 10, fol. 21) that the goods are such a stock as is usually carried in country stores. In 1869 the United States internal revenue assessor for the second district of Minnesota recommended the Secretary of the Interior (Exhibit F, p. 45, fol. 101) to establish an internal revenue division of the collection district in this region, upon the grounds that a large immigration had already gone into that portion of the state; that new and important towns were springing up there; and that breweries and manufactories were preparing to go into operation early in the ensuing spring. The division was established, (Exhibit G, p. 45, fol. 101.)

In 1872 and 1873, as appears from Exhibits I and K, p. 56, fols. 104–5, different persons, including Lariviere, the claimant, paid special taxes as retail liquor dealers in Polk county and received from the collector of internal revenue a receipt (see form, Exhibit L, p. 47, fol. 106,) which states the business for which it was given and the place where the business was to be carried on. Lariviere was assessed, paid his tax and his receipt (Exhibits K and L, pp. 46 and 47) is a receipt for special taxes to carry on the business of retail liquor dealer at Crookston, Polk county, Minn. He paid his tax July 21, 1873, twenty-five dollars and sixty-nine cents, from May, 1873, to April 30, 1874. See also the testimony of William Bickel, collector of internal revenue, p. 40, fol. 90 *et seq.*, and the testimony of Samuel H. Nichols, p. 41, fol. 93. The court charged the

jury, (p. 41, fol. 94 *et seq.*,) that the mere introduction of spirituous liquor into the ceded country raised the presumption that it was introduced for an unlawful purpose, was *prima facie* evidence of the fact, and charged them further that the payment of a special tax by Lariviere to the government as a retail liquor dealer at Crookston, and the issuance of the receipt therefor to him in due form by the collector of internal revenue, overcomes any *prima facie* evidence of an intent to violate the law, and the government is required to prove that the introduction was for an unlawful purpose by additional testimony; that the mere introduction by Lariviere of liquors into this territory will not, in view of the evidence offered by the defense, warrant a verdict for the government; and that it must also appear that he introduced the liquors for the purpose of selling them to the Indians, and that the uncontroverted facts proved for the defense were a license to Lariviere to take the liquor to Crookston and gave him the right to do so.

The jury found for the defendant. The United States sued out a a writ of error to the circuit court, where the judgment was affirmed.

The question is whether the mere introduction of spirituous liquors into the country ceded by the treaty, by a person who has paid the special tax as retail liquor dealer, and has received from the United States a receipt therefor stating that the business is to be carried on at a certain place named in that region, works a forfeiture of the merchant's stock. It is an important question, for if stocks of goods are thus forfeited by the mere act of introduction under such circumstances, then the stocks of goods of merchants of every class who deal in liquors within that vast tract of Minnesota and Dakota which was ceded by the treaty of 1863, are subject to forfeiture, and so also are the railroad cars which carry liquors into it and beyond it in bond into Manitoba.

This case was considered by this court, 93 U. S. p. 188, upon demurrer and exceptions to the information. In its present aspect the bill of exceptions shows, as we have stated, that Lariviere had been assessed, had paid his internal revenue tax, and received a receipt stating that the business was to be carried on at Crookston, where the goods were seized, and the court having left to the jury upon the testimony the question of his intent, they found in his favor.

PROPOSITIONS OF LAW.

First—The court did not err in admitting the testimony respecting the payment by Larivere of his tax as a retail liquor dealer at Crookston; nor did it err in submitting the question of his intent to the jury as a question of fact. By the treaty between the United States and the Red Lake and Pembina bands of Chippewa Indians, concluded October 3, 1863, (13 Stat. 668,) it is provided "that the laws of the United States now in force or that may hereafter be enacted, prohibiting the introduction and sale of spirituous liquors in the Indian country, shall be in full force throughout the country hereby ceded,

until otherwise directed by congress or the president of the United States." It will be seen that laws which prohibit the introduction of liquor merely are not continued by this treaty; those laws are only continued which prohibit both introduction and sale. And the Supreme Court, in the opinion delivered in this case, (93 U. S. p. 192,) seems to have considered such to be the meaning of the treaty. The language of the opinion is, "introduced for sale," p. 193; "liquor introduced for unlawful purposes," p. 195; "liquors intended to corrupt Indians," "the introduction and sale," p. 196; "introduction within it of spirituous liquors, and the sale of it to the Pembina Indians," p. 198.

Second—The United States, by assessing Lariviere as a retail liquor dealer at Crookston, and by receiving a tax from him and giving him a receipt stating that he was to do business as a retail liquor dealer at that place, abrogated the treaty as to him, and forfeited its right to enforce against him any forfeiture under the treaty. This principle would seem to follow from the doctrine established by this court in the case of *Cherokee Tobacco*, 11 Wall. 616. By the tenth article of the treaty of 1866, between the United States and the Cherokee nation, it was provided that every Cherokee Indian and freed person, residing in the Cherokee nation, shall have the right to sell the products of his farm, including his or her live stock, or any merchandise of manufactured products, without restraint, paying any tax thereon which is now or may be levied by the United States on the quantity sold outside of the Indian Territory. By the 107th section of the internal revenue law of July 20, 1868, (which was the law in force when Lariviere's stock was seized,) it was provided that the internal revenue laws imposing taxes on distilled spirits * * * shall be construed to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same shall be a collection district or not." And the question in the case of the *Cherokee Tobacco* was whether this provision of the internal revenue act superseded the provisions of the treaty respecting exemption from taxation. The case arose upon a proceeding to procure the condemnation and forfeiture of certain tobacco raised and seized in the Cherokee nation. This court held that the revenue act embraced the Indian Territory, and in doing so held that the effect of the act was to supersede the treaty.

In the present case, by establishing a collection division over this region and exacting of Lariviere and others a tax for doing the very act which is complained of as a forfeiture, the government abrogated the treaty, and is estopped to assert any right of forfeiture under it, or any law referred to by it. The payment of the tax and the issuing of the receipt were a license to Lariviere to do the act complained of in the very place where he did it.

The revenue acts provided in substance that when a special tax is paid the receipt given therefor shall set forth the purpose and business for which such tax is paid, the name and place of abode of the per-